



Deskbook on Language Access in Washington Courts

***Providing Access to Courts for Limited English
Proficient (LEP), Deaf, Hard-of-Hearing, and Deaf-
Blind (D/HH/DB) Individuals***

June 2017

*THE WASHINGTON STATE MODEL LANGUAGE ACCESS PLAN IS A JOINT PROJECT
OF THE ADMINISTRATIVE OFFICE OF THE COURTS, THE WASHINGTON STATE
SUPREME COURT INTERPRETER COMMISSION, NORTHWEST JUSTICE PROJECT,
AND SEATTLE UNIVERSITY SCHOOL OF LAW*

MODEL LANGUAGE ACCESS PLAN FOR INDIVIDUALS WHO ARE LIMITED-ENGLISH PROFICIENT, DEAF, HARD OF HEARING, OR DEAF-BLIND

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PREFACE

Central to our system of justice is the principle that all people have an equal and fair opportunity to be heard in the courts. Here in Washington State, through the leadership of the Washington State Supreme Court and the Administrative Office of the Courts, a dedicated Interpreter Commission and Interpreter Program were created to ensure that all individuals with language access needs are provided this important opportunity.

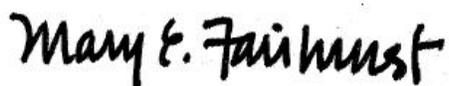
Culminating a two-year long effort by the Interpreter Commission and several court and justice partners as well as stakeholders, we are pleased to release a newly revised **2017 Model Language Access Plan**. The Model Plan serves as a framework and roadmap on how the courts can improve and enhance the provision of language access services in order to meet the growing linguistic needs of our diverse populations in Washington State. The updated document now comes with a more expansive explanation of the underlying Constitutional, federal and state statutory language provisions, and practical tips from courts throughout the state on practices that help guide the development of local court's Language Access Plans.

The Interpreter Commission, Court Interpreter Program, and the Administrative Office of the Courts stand ready to assist courts in meeting the language access needs of their populations, completing their individual court language access plans, and providing continuing training and resources. Likewise, court officials and personnel are committed to improvements that will provide excellence in service to all who come before them.

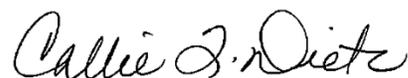
Equal and fair access to courts cannot occur when there are barriers to comprehending the proceedings, presenting the facts and understanding the ruling. Therefore, providing language access services that enable participants to fully and meaningfully engage in the process is essential to the very integrity of the justice system. Commission members, staff, court interpreters, court officials and stakeholders have the willingness and dedication to succeed. Their focus on innovation, technological advancements and best practices, will ensure Washington State will become a national leader in the pursuit of equal justice and access to meet the needs of our growing diverse population.

We greatly appreciate the thoughtful planning and implementation of this Model Language Access Plan as a cornerstone in the solid foundation of Washington State's commitment to fair and equitable justice at every level of court.

Sincerely,



Chief Justice Mary Fairhurst
Washington State Supreme Court



Callie T. Dietz
Washington State Court Administrator

II. EXECUTIVE SUMMARY

“The vibrancy of our democracy depends upon our willingness to ensure that the fullest range of voices and interests is represented and heard. This is what the fight for equal justice is all about.”

*Hon. Robert F. Utter, Retired Justice,
Washington State Supreme Court*

A. Background

The first model Language Access Plan (“LAP”) ¹ document for Washington state trial courts was created in 2008 by the staff from the Administrative Office of the Courts (AOC), the Washington State Supreme Court Interpreter Commission (“the Commission”), Columbia Legal Services and the Northwest Justice Project. This collaborative effort began as a result of statutory language directing the AOC to adopt standards for several language access plan elements identified in RCW 2.43.090. In addition to state statutes, federal regulatory authorities encouraged recipients of federal funds to have in-house LAPs in place that covered federally-required service delivery elements. As a result, Washington trial courts created their own language access plans using a model plan developed by the AOC. Since then, there have been state and national-level policy enhancements affecting language access services for Limited English Proficiency (“LEP”) individuals in judicial and quasi-judicial settings that have prompted the need to create an updated model LAP for Washington trial courts. This new model is designed to provide guidance and tools to create individual or joint-court operational plans for the provision of language access services in court operations and services to the public.

B. Process Methodology

Members of the Washington State Interpreter Commission, AOC staff, court staff and judges, and language access experts were invited to serve on the Model LAP Revision Workgroup (“the WG”). The WG was separated into two drafting teams with one focusing on the legal policy section and the other on refining the court-level programs and services template. The legal policy foundation team consisted of two key individuals in Washington State who had previously participated in the creation of the American Bar Association’s Standards for Language Access in the Courts guidance document: Professor Gillian Dutton of Seattle University School of Law and Kristi Cruz, Staff Attorney with the Northwest Justice Project. The updated Washington State LAP Desk book provides trial courts with a more detailed outline of the federal and state mandates and guidelines regarding the level and types of services that should be made available to LEP individuals and for deaf, hard of hearing, or deaf-blind (“D/HH/DB”) individuals who are seeking to access state trial courts and receive services provided by those courts.

The second drafting team (“Court User Group”) was made up of municipal, district, and superior court administrators and court interpreter coordinators from both sides of the state who have had considerable experience in procuring and scheduling language access services for persons who are LEP and persons who are deaf, hard of hearing, or

¹ LAPs include policies, procedures, protocols, tools and services for ensuring equal access to LEP individuals, as well as for deaf and hearing-impaired persons. See Appendices [A](#) and [B](#).

deaf-blind (“D/HH/DB”). This Court User Group consisted of Judge David Estudillo (Grant County Superior Court), Fona Sugg (Chelan County Superior Court Administrator), Emma Garkavi (Seattle Municipal Court Interpreter Coordinator), LaTrisha Kinlow (Tukwila Municipal Court Administrator), Tristen Worthen (County Clerk, Douglas County), and Jessica Gurley (Snohomish County Superior Court Program Administration). The Court User Group updated the previous 2008 template and court user instructions to create a revised LAP template document that can be adapted to the local needs and circumstances of each court, cluster of courts, or all courts in a county or region. **(See Appendix A for the model court template user instruction guide and Appendix B for the model court template).**

A substantially completed draft of the legal policy framework and user instructions/court template sections was reviewed by the United States Department of Justice (DOJ), through its United States Attorney's Office for the Western District of Washington (AUSA J. Michael Diaz) and the Civil Rights Division (Attorney Michael Mulé), which provided valuable edits and commentary to the revised LAP. The WG teams took their suggested changes and comments into consideration and made revisions as appropriate. However, it should not be taken to imply that because the DOJ has reviewed and provided input on the drafts, the Desk book is approved as to form or content by the DOJ as complying with all applicable federal laws and regulations affecting LEP and D/HH/DB individuals accessing state courts.

The final Desk book draft was reviewed and adopted by members of the Commission on March 3, 2017 and final adoption by the AOC on July 7, 2017.

C. Revised LAP Policy Updates and Template

Policy Updates

After the 2008 passage of RCW 2.43.090, the United States Department of Justice (DOJ) issued further clarification in 2010 regarding federal expectations for the provision of language access services by entities that receive federal funds and the Board of Judicial Administration further adopted a resolution in 2012 supporting language access at no cost to LEP parties in all court-operated functions and programs. Federal DOJ action under Title VI of the Civil Right Act of 1964 against individual state courts, including King County Superior Court, and state agencies (i.e., Washington State Department of Labor and Industries) receiving federal funds provided further clarification. As a result of these policy advances, the need arose for a revised LAP for Washington trial courts.

In addition to addressing the components of each court’s individual plan as outlined in RCW 2.43.090, this revised model plan addresses ancillary aspects related to the provision of language access (i.e, translated notice of service availability, translated websites, and court brochures etc.) and language assistance services (i.e., interpreters and translated forms) affecting court proceedings, front service desk encounters, and in court-operated programs and services.

LAP Template for Courts

One of the new additions to the model template governs the provision of specific language assistance services each court can identify to best meet the language access needs of D/HH/DB individuals. This LAP offers practical solutions to many of the language assistance issues faced by courts across our state. The checkboxes in the template enable courts to quickly identify those services that act as benchmarks for

standards or best practices and to move in the direction of adopting them as their own standard protocol or policy.

By utilizing the user instructions in conjunction with the template, each court or regional cluster can assess the language needs of its own court community and develop a local plan for ensuring meaningful access to the courts by LEP and D/HH/DB individuals. This document is intended to be a user-friendly guide to assist courts in (1) developing language assistance plans, (2) complying with federal and state mandates, and (3) meeting the needs of the LEP and D/HH/DB population in its jurisdiction.

It is hoped that this LAP will facilitate communication and exchange of ideas between trial courts on ways to address our common concerns, thus enabling all courts to ensure that LEP and D/HH/DB individuals across the state receive a level of court access equal to those for whom English is their first language.

III. INTRODUCTION AND PURPOSE OF DESKBOOK: MODEL LANGUAGE ACCESS PLAN FOR LEP AND D/HH/DB

Washington State Courts and AOC are committed to providing access to courts for LEP individuals using spoken language interpreters and D/HH/DB individuals using sign language interpreters; this plan underscores the importance of both in ensuring access to courts for all individuals.

The AOC's Court Interpreter Program coordinates the credentialing of spoken language interpreters and provides training to court staff on using court interpreters as well as American Sign Language (ASL) interpreters working in court settings. The Interpreter Commission establishes policies related to the testing and use of court interpreters and provides guidance to the program as it relates to both groups. Courts are encouraged to contact the AOC Court Interpreter Program or the Interpreter Commission for resources and to provide input to help achieve the goal of equal access to courts.

This model Language Access Plan (LAP)² updates and replaces the previous Limited English Proficiency (LEP) Plan adopted by the AOC in 2008. The AOC is issuing this update for several reasons: to include D/HH/DB individuals where interpreter services are the requested accommodation; to modernize the description of appropriate interpreter and translation services given new technology; and to take corrective action in response to complaints filed against Washington courts with the DOJ regarding the use of an indigency standard for the provision of spoken language interpreters in civil cases.

This LAP provides trial courts with a brief outline of the federal and state legal requirements regarding necessary language access services for LEP and D/HH/DB individuals, describes responsibilities of the AOC and the Interpreter Commission as well as state courts, and includes available resources for implementation of the required

² RCW 2.43 and DOJ Guidance refer to a "Language Assistance Plan," however, more recent Guidance and technical assistance tools refer to the "Language Access Plans", which are described as a management document that outlines how the court defines tasks, sets deadlines and priorities, assigns responsibility, and allocates the resources necessary to come into or maintain compliance with language access requirements. In this document, we choose to use the term "Language Access Plan" (LAP) to refer to the overarching management tool and the term "Language Assistance Services" when referring to the specific oral interpretation and written translation services a court determines are necessary to provide.

activities. It serves as a guide to courts as they draft and implement their individual language access plans required by state law.³ This LAP also sets out more concrete guidelines for future updates of both the LAP and its appendices.

Inclusion of Both LEP and D/HH/DB Services

The decision to include both LEP and D/HH/DB interpretation and translation services in the same LAP arose because the delivery of language assistance services – interpretation and translation services - to these populations involves some similarities, and because many courts consolidate these services within the same office and staff. However, while this plan addresses language access to court services in the context of serving deaf, hard-of-hearing, and deaf-blind litigants and witnesses, it limits the scope to instances where the D/HH/DB individual's requested accommodation is a sign language interpreter. It does not contain a full description of other reasonable accommodations which may be required under the Americans with Disabilities Act (ADA) and which are described in each court's ADA Plan. Where appropriate, this model LAP also highlights the distinctions between the different populations. The legal requirements to ensure appropriate language access services are distinct and therefore are discussed separately.

Washington State has long been a leader in providing language access in courts and this Deskbook represents a commitment to meet and exceed the legal requirements in order to develop best practices. Washington was a founding member state of what is now the national Council of Language Access Coordinators and helped to guide development of the court interpreter testing system now utilized across the country. Along with related stakeholders, the AOC has developed methods and materials to meet the needs of the LEP and D/HH/DB population in our courts and court-related services and those resources are referred to throughout this document in an effort to assist courts.

Data on LEP and D/HH/DB Individuals

The number of individuals needing interpreter services in the state continues to grow and the number of languages represented by those individuals is constantly increasing. Washington State ranked among the top ten states with the largest number of LEP residents and among the top 10 states with the sharpest increase in LEP population between 1990 and 2000, with an increase of 209.7 percent over that time.⁴ Approximately 7.8 percent of Washington State's population is limited English proficient. As of 2014, that represents approximately 505,263 individuals speaking approximately 215 languages.⁵

³ RCW 2.43.090

⁴ US. Census Bureau, 2010 ACS Table B16001 at: <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> 1990; Decennial Census, <http://www.census.gov/hhes/socdemo/language/data/census/table1.txt>; Migration Policy Institute, "Limited English Proficient Individuals in the United States: Number, Share Growth, and Linguistic Diversity." (Dec. 2011), available at: <http://www.migrationinformation.org/integration/LEPatabrief.pdf>.

⁵ According to Office of Superintendent of Public Instruction, Transitional Bilingual Instruction Program, Washington families reported 215 languages spoken at home as the primary language of the student. This number does not include LEP parents or guardians; however. See: <http://www.k12.wa.us/LegisGov/2016documents/2016-02-TranstionalBilingualInstructionProgram.pdf>; See also: See Appendix C-2014-15 School Year Languages Spoken by District, located within <http://www.k12.wa.us/MigrantBilingual/BilingualProgram/AnnualReports.aspx>

Statistics on deaf and hard of hearing individuals, particularly data from the U.S. Census, include individuals who have become hard of hearing due to age. A snapshot of this data from 2014 shows the number of individuals within the Washington state population expressing a “hearing difficulty” at approximately 5.9%.⁶ However, that number does not accurately reflect the population of D/HH/DB individuals who communicate in sign language and for whom courts must provide interpreter services. The Gallaudet Research Institute conducted a model-based estimate using the *ACS 1-Year Estimate* data for 2012 and estimated the “deaf” population in Washington as being 2.4%.⁷ The number of people who rely on sign language for communication purposes is substantially less than that percentage, as many who are “deaf” are people who are over age 60 and do not know sign language nor plan to learn it.

Determining demographic data is complicated, yet critical to assessing and addressing language access needs in a given jurisdiction. U.S. Census data is relatively complete, yet only includes 39 different language groups. For instance, Somali, Amharic, Tigrinya, and Oromo are all included in the group “East Africa,” which can lead courts to overlook language groups eligible to be served in a given community. As a result, courts must look at U. S. Census data and other demographic data in order to get a complete picture of the languages needed at the local level. One of the best data sources for local spoken language trends is the household language data gathered by the Washington State Office of Public Instruction (OSPI). OSPI collects data on the primary language spoken at home in a more detailed list of languages (currently over 215 separate languages identified) and enrolls students in its English Language Learners Program to provide transitional English language instruction. However, this data refers only to the student’s primary language, even when there is very likely at least one (or more) parents and/or family members who do not speak English and are potential users of court-related services. Therefore, it is often necessary to consult multiple sources when determining the languages spoken in a given jurisdiction.

The Need for Updated Court Language Access Plans

The need for language access services in courts is well established; however, the quality of these services for both LEP and D/HH/DB individuals across the state varies and at times falls below the level necessary to meet federal and state standards. Regular monitoring and updating of individual court language access plans is necessary to ensure that new languages are added and that appropriate technologies are used.

Utilizing the model LAP policies, template, and instructions, each court is required to assess on a yearly basis the language needs of its own community, adapting the template to local needs and circumstances to develop a local plan for delivery of language assistance services sufficient to ensure meaningful access to the courts by all LEP individuals and to ensure effective communication for all D/HH/DB individuals. This model plan offers practical solutions to many of the language access issues faced by courts across our state and identifies resources and best practices where applicable. Contact information is included to facilitate communication and exchange of ideas between trial courts on ways to address common concerns, thus enabling all courts to ensure that LEP and D/HH/DB individuals across the state receive a level of court access equal to those for whom English is their first language.

⁶ <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>

⁷ <http://libguides.gallaudet.edu/content.php?pid=119476&sid=1029190>

Washington courts have a demonstrated commitment to language services, including a 2017 resolution⁸ by the Board of Judicial Administration recognizing the importance of providing appropriate language access services to LEP persons in Washington State.

The Resolution is as follows:

Adopted by the Board for Judicial Administration July 20, 2012 17-1 Readopted by the Board for Judicial Administration May 19, 2017 Expires May 19, 2022

*RESOLUTION of the BOARD FOR JUDICIAL ADMINISTRATION
of the State of Washington*

In Support of Language Access Services In Court

WHEREAS, equal access to courts is fundamental to the American system of government under law; and

WHEREAS, language barriers can create impediments to access to justice for individuals who are limited-English proficient; and

*WHEREAS, it is the policy of the State of Washington “to secure the rights, constitutional or otherwise, of persons who, because of a non-English-speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.”
RCW 2.43.010 (Interpreters for non-English speaking persons); and*

WHEREAS, courts rely upon interpreters to be able to communicate with limited-English proficient litigants, witnesses and victims in all case types; and

WHEREAS, the State has previously acknowledged a responsibility to share equally with local government in the costs incurred in paying for quality court interpreting services; and

WHEREAS, the Board for Judicial Administration recognizes the benefit that interpreting services provide to limited English proficient litigants and to the fact-finder in the efficient and effective administration of justice; and

WHEREAS, the Board for Judicial Administration previously adopted a Resolution to, among other things, “remove impediments to access to the justice system, including physical and language barriers, rules and procedures, disparate treatment and other differences that may serve as barriers.” (Board for Judicial Administration, Civil Equal Justice); and

WHEREAS, the provision of free and qualified interpreter services in all legal proceedings promotes the Principal Policy Objectives of the State Judicial Branch regarding fair and effective administration of justice in all civil and criminal cases, and accessibility to Washington courts; Adopted by the Board for Judicial Administration July 20, 2012 17-1 Readopted by the Board for Judicial Administration May 19, 2017 Expires May 19, 2022

NOW, THEREFORE, BE IT RESOLVED:

That the Board for Judicial Administration:

- 1) Endorses the provision of interpreter services, at public expense, in all legal proceedings, both criminal and civil;*

⁸ http://www.courts.wa.gov/programs_orgs/pos_bja/LanguageAccessServicesResolution.pdf

- 2) Supports the elimination of language–related impediments to access to the justice system for limited English proficient litigants; and
- 3) Encourages the State to fulfill its commitment to share equally in the responsibility to provide adequate and stable funding for court interpreting services.

ADOPTED BY the Board for Judicial Administration on July 20, 2012.

IV. LEGAL AUTHORITY

A. Interpreter and Translation Services for LEP Persons:

1. Federal and Washington state law require that LEP persons be provided with competent interpreters in all court cases and proceedings. For courts that receive federal financial assistance, either directly or indirectly, interpreter services must be provided to all LEP persons without charge.

Both federal and Washington law require that courts provide all LEP individuals with qualified⁹ interpreters during all legal proceedings, meaning court hearings, trials, and motions in which an individual has the right to participate as a party or witness. Constitutional protections, federal law, and Washington State laws regarding access to courts and interpreter services for LEP individuals are described below.

Fundamental principles of fairness, access to justice, and the integrity of the judicial process all require the delivery of interpreter services in instances where the court and a litigant or witness do not share a common language. The right of LEP persons to interpreter services in order to be fully present at a trial, participate in their own defense, testify on their own behalf, and confront witnesses against them is well established in case law.¹⁰ None of these foundational principles is upheld when an LEP defendant is not provided with qualified interpreter services.

In order to effectuate the guarantees of the Fifth, Sixth, and Fourteenth Amendments of the Constitution of the United States, an LEP defendant must be provided with an interpreter. These principles are found in federal and state case law. In *U.S. v. Carrion*, the court stated that, “[C]learly, the right to confront witnesses would be meaningless if the accused could not understand their testimony, and the effectiveness of cross-examination would be severely hampered.”¹¹ In *United States ex rel. Negron v. State*, the U.S. Supreme Court found that proceeding in the absence of an interpreter, where the defendant was LEP, “lacked the basic and fundamental fairness required by the due process clause of the Fourteenth Amendment.”¹² In *State v. Gonzales–Morales*, the Washington State Supreme Court held that, “the right of a defendant in a criminal case to have an interpreter is based upon the Sixth Amendment constitutional right to

⁹ “Qualified interpreter” is a general term to represent the idea that an interpreter is qualified to work in the particular setting. In Washington courts, interpreters are credentialed as “certified” or “registered” interpreters. Further discussion of interpreter qualifications including credentials is defined in detail in subsection C, below.

¹⁰ See: *United States v. Sanchez*, 483 F.2d 1052, 1057 (2nd Cir. 1971); *State v. Natividad*, 526 P.2d 730, 733 (Ariz.1974); *People v. Romero*, 187 P.3d 56, 73-74 (Cal. 2008); *United States v. Edouard*, 485 F.3d 1324, 1338 (11th Cir. 2007); *Perez-Lastor v. INS*, 208 F.3d 773, 778 (9th Cir. 2000); *United States v. Carrion*, 488 F.2d 12, 14 (1st Cir. 1973)

¹¹ *United States v. Carrion*, 488 F.2d 12, 15 (1st Cir. 1973), at 14.

¹² *United States ex rel. Negron v. State*, 434 F.2d 386 (2nd Cir. 1970)

confront witnesses and "the right inherent in a fair trial to be present at one's own trial."¹³ The *Gonzales-Morales* court also noted that, "[I]t is also the declared policy of this state under RCW 2.43.010 to secure the rights, constitutional or otherwise, of persons who, because of a non-English speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them."¹⁴ More recently, in *In re Khan* the Washington State Supreme Court reiterated that defendants have, "both a statutory and constitutional right to an interpreter throughout the proceeding..."¹⁵ should they need one.

In addition to case law, federal statutes require the provision of interpreter services to LEP individuals in courts. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq. (Title VI), and the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3789d(c) (Safe Streets Act), both prohibit national origin discrimination by recipients of federal financial assistance. Regulations implementing Title VI and the Safe Streets Act further prohibit recipients from administering programs in a manner that has the effect of subjecting individuals to discrimination based on their national origin. See 28 C.F.R. §§ 42.104(b)(2), 42.203(e). The Supreme Court affirmed in *Lau v. Nichols*, 414 U.S. 563 (1974), that the Title VI prohibition against national origin discrimination includes discrimination against LEP individuals on the basis of language.¹⁶ Courts have applied *Lau* outside of educational settings.¹⁷ The Ninth Circuit Court of Appeals has held that "discrimination against LEP individuals [is] discrimination based on national origin in violation of Title VI..." *Colwell v. Dep't of Health & Human Servs.*, 558 F.3d 1112, 1116-17 (9th Cir. 2009) (citing *Lau* at 567-68). The prohibition against discrimination by recipients of federal funds has also been extended to federal agencies. In August of 2000, President Clinton issued Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency.¹⁸ The Executive Order requires federal agencies to issue guidance to ensure that their grantees comply with Title VI and provide meaningful access to federally funded programs and services for LEP individuals.

In 2002, the DOJ issued *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*¹⁹ (hereinafter *Guidance*) which further explains the language access requirements of recipients of federal financial assistance, including state courts. The Title VI regulations and *Guidance* require every state court receiving federal financial assistance to take reasonable steps to ensure that all LEP individuals will have meaningful access to all court proceedings and court-related programs and activities. Washington State courts that receive federal financial assistance are subject to the

¹³ *State v. Gonzales-Morales*, 979 P.2d 826 (Wash. 1999) at 379.

¹⁴ *Id.*

¹⁵ *In re Pers. Restraint of Khan*, 184 Wn.2d 679, at 688 (Wash. 2015).

¹⁶ *Language Access in State Courts*, U.S. Department of Justice, Civil Rights Division, Federal Coordination and Compliance Section (2016) at 3, citing *Lau v. Nichols*, 414 U.S. 563 (1974).

¹⁷ For cases outside the educational context, see, e.g., *Sandoval v. Hagan*, 7 F. Supp. 2d 1234 (M.D. Ala. 1998), affirmed, 197 F.3d 484, (11th Cir. 1999), rehearing and suggestion for rehearing en banc denied, 211 F.3d 133 (11th Cir. Feb. 29, 2000) (Table, No. 98-6598-II), petition for certiorari filed May 30, 2000 (No. 99-1908) (giving drivers' license tests only in English violates Title VI); and *Pabon v. Levine*, 70 F.R.D. 674 (S.D.N.Y. 1976) (summary judgment for defendants denied in case alleging failure to provide unemployment insurance information in Spanish violated Title VI).

¹⁸ Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 65 Fed. Reg. 50,121 (Aug. 16, 2000), at <https://go.usa.gov/x3tUz>.

¹⁹ Fed. Reg. Vol 67, No. 117, 41455 (2002).

requirements of Title VI, Title VI regulations, and the *Guidance*. Failure to comply with Title VI or its regulations could result in the loss of federal funding.²⁰

The *Guidance* states that courts must provide competent language services for every court matter for which an LEP person may or must be present, including hearings, trials, and motions. This includes not only all criminal matters, but also all civil matters.²¹ The *Guidance* offers a four-factor analysis to help determine what language assistance is required beyond the provision of interpreter services for court proceedings.²² In an August 2010 letter to state courts, included in **Appendix K**, DOJ further clarified that meaningful access must be provided to LEP persons in all court and court-annexed proceedings, whether civil, criminal, or administrative including those presided over by non-judges.²³

Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Federal financial assistance can include pass-through funding. In these instances, the “sub-recipient” is bound by the same requirements as the recipient. Additionally, receipt of federal funds, by a recipient or sub-recipient, extends Title VI obligations to the entire program or activity. Even if only one part of a recipient program receives federal assistance, all parts of a recipient's operations are covered.

Washington State's interpreter statute, Interpreters for Non-English Speaking Persons, RCW 2.43.010, declares that it is the policy of the State “to provide for the use and procedure for the appointment of interpreters to secure the rights, constitutional or otherwise, of persons who, because of a non-English-speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.” RCW 2.43.030 establishes the requirement that the appointing authority shall, in the absence of a written waiver by the person, appoint a certified²⁴ or a qualified interpreter in all legal proceedings in which an LEP person is involved. A “legal proceeding” means a proceeding in any court in this state, grand jury hearing, or hearing before an inquiry judge, or before an administrative board, commission, agency, or licensing body of the state or any political subdivision thereof. RCW 2.43.020 (3). Under no circumstances may a court direct LEP parties or witnesses to provide or arrange for their own interpreter services. Each court must develop procedures to ensure appointment of qualified interpreters for all legal proceedings.

Washington State also requires courts to appoint credentialed interpreter services for LEP parents, guardians, and children involved in juvenile court proceedings and programs using the framework of RCW 2.43. RCW 13.04.043 directs that juvenile court administrators “shall obtain interpreters as needed consistent with the intent and

²⁰ For an example of an agreement between a Washington Court and the Department of Justice regarding language access services, see: http://www.justice.gov/sites/default/files/crt/legacy/2014/01/24/012114_DOJ_Review_of_Interpretive_Services_King_County.pdf

²¹ Fed. Reg. Vol. 67, No. 117, at 41459, cf. footnote 5

²² *Ibid.*, at 41471.

²³ For an example of an agreement between a Washington Court and the Department of Justice regarding language access services, see: <https://go.usa.gov/xNwkQ>

²⁴ While the language of the statute refers to certified or qualified interpreters, the Washington Court Interpreter Program has developed a credentialing system for court interpreters that includes two types of assessments resulting in either certified or registered status. More discussion of the credentialing system used by Washington Courts is considered in section C, below.

practice of chapter 2.43 RCW, to enable non-English speaking youth and their families to participate in detention, probation, or court proceedings and programs”. In addition, RCW 12.40.080(8) provides that “The diversion unit shall, subject to available funds, be responsible for providing interpreters to effectively communicate during diversion unit hearings or negotiations. RCW 2.56.130 also requires the administrator for the courts to develop informational materials for non-English speaking youth and their families. These requirements, enacted in 1993 in response to a growing awareness of the racial disproportionality in the justice system, demonstrates Washington’s early recognition that communication in informational materials and outside the hearing itself, during diversion and negotiation, must be available for those who are LEP.

The question of who pays for these required services is determined in part by the kind of funding received by the court or agency in its operations. Federal law and Washington State’s court interpreter statute have different requirements regarding who must pay for the cost of interpreters in legal proceedings. Washington’s court interpreter statute, RCW 2.43, provides that the court, governmental body, or agency initiating the proceeding must pay for the interpreter in all legal proceedings in which the LEP individual is compelled to appear by the court, governmental body, or agency.²⁵ In all other proceedings, the cost of the interpreter is borne by the LEP individual unless the person is indigent, in which case the governmental body responsible for the legal proceeding bears the cost.²⁶ However, for courts in Washington State that are recipients of federal financial assistance, the DOJ prohibits charging for an interpreter since this would constitute discrimination based on national origin. The DOJ *Guidance* makes clear that court proceedings are among the most important activities conducted by recipients of federal funds, and emphasizes the need to provide interpretation free of cost:

...[W]hen oral language services are necessary, recipients should generally offer competent interpreter services free of cost to the LEP person. For DOJ recipient programs and activities, this is particularly true in a courtroom, administrative hearing, pre- and post-trial proceedings, situations in which health, safety, or access to important benefits and services are at stake, or when credibility and accuracy are important to protect an individual's rights and access to important services.²⁷

Additional clarification regarding charging LEP persons for the cost of interpreter services is found in a 2010 Courts Letter from the DOJ to each State Court Chief Justice and Court Administrator and in a subsequent document on “Language Access in State Courts” issued by DOJ in September 2016.²⁸ The 2010 Courts Letter highlighted several areas of ongoing concern, including the practice of charging litigants for interpreter services. The letter reminded courts that “Title VI and its regulations prohibit practices that have the effect of charging parties, impairing their participation in proceedings, or limiting presentation of witnesses based upon national origin.” DOJ clarified that “[c]ourts that charge interpreter costs to the parties may be arranging for an interpreter's presence, but they are not "providing" the interpreter. DOJ expects that, when meaningful access requires interpretation, courts will provide interpreters at no cost to the persons involved.” In the 2016 document, DOJ further highlighted the

²⁵ RCW 2.43.040(2).

²⁶ RCW 2.43.040(3).

²⁷ Federal Register, Vol. 67, No 117 at 41462.

²⁸ <https://www.justice.gov/crt/file/892036/download>

importance of no-cost language services in court settings and emphasized that “imposing interpreter fees is contrary to the court’s interest in protecting the integrity and fairness of the proceedings.”²⁹ When courts are investigated following complaints of non-compliance with Title VI provisions, the resulting memoranda often include the provisions discussed in this LAP. One example of a memorandum of agreement between the DOJ and a Washington State Court is the January 9, 2014 agreement in which King County Superior Court agreed to provide language assistance services at no cost to LEP parties and persons of interest in all court proceedings and operations, both civil and criminal.³⁰

Under Washington law, even those courts that are not recipients of federal financial assistance may not charge a criminal defendant for the cost of interpreter services, regardless of indigency. A criminal defendant has both a statutory and constitutional right to an interpreter throughout the legal proceeding, should he or she need one. RCW 2.43.010, .030, .040(2); *State v. Gonzales-Morales*, 138 Wn.2d 374, 379, 979 P.2d 826 (1999); *State v. Woo Won Choi*, 55 Wn. App. 895, 901, 781 P.2d 505 (1989) (citing *United States v. Carrion*, 488 F.2d 12, 14 (1st Cir. 1973)).

Costs associated with the provision of interpreter services are inherent in the constitutionally guaranteed requirement that courts provide defendants with a fair jury trial. RCW 2.43.040(4)’s authorization to tax costs of interpreters to non-English speaking individuals in any instance where costs ordinarily are taxed was found to be a violation of equal protection in *State v. Mariano Diaz-Farias*, (2015), following *Marintorres*, 93 Wn. App. 442 (1999, Div. II). Both the Court of Appeals in Division II (in a published decision) and the Court of Appeals in Division III (in an unpublished decision) ruled that in a criminal case, requiring an LEP criminal defendant to pay for an interpreter but not requiring a hearing-impaired criminal defendant to do so violates both the Equal Protection Clause of the U.S. Constitution and the Privileges and Immunities Clause of Washington’s Constitution. (*State v. Marintorres*, 93 Wn. App. 442 (1999, Div. II); *State v. Al-Khaledy*, Court of Appeals Div. III, Docket No. 22945-9-III, (2004)). These cases find that treating LEP and D/HH/DB parties and witnesses differently violates both the Equal Protection Clause and the Privileges and Immunities Clause of Washington’s Constitution. Although the issue has not yet arisen in a civil case, the same rationale could be applied to civil matters given that under RCW 2.42 courts are not allowed to tax the cost of interpreter services in any legal proceeding, criminal or civil, for D/HH/DB litigants.

The right to an interpreter cannot be waived unless the conditions of RCW 2.43.060 are met. RCW 2.43.060 (1) states that, “The right to a qualified interpreter may not be waived except when: (a) A non-English-speaking person requests a waiver; and (b) The appointing authority determines on the record that the waiver has been made knowingly, voluntarily, and intelligently. (2) Waiver of a qualified interpreter may be set aside and an interpreter appointed, in the discretion of the appointing authority, at any time during the proceeding.

²⁹ Language Access in State Courts, U.S. Department of Justice, Civil Rights Division, Federal Coordination and Compliance Section, September 2016, at 7.

³⁰ Letter of Resolution - Review of Interpretive Services in King County Superior Court, DOJ # 171-82-22, which can be found at: <https://go.usa.gov/xNwkG>.

2. Language services must be provided for LEP persons' out-of-court contact with court staff and other court related services

Meaningful access to courts necessarily involves access to services and programs outside of the courtroom. Since issuing the *Guidance* in 2002, the DOJ has continued to inform courts about their ongoing obligation to ensure meaningful access to court related services for LEP persons. The 2010 DOJ letter to State Court Chief Justices and State Court Administrators (Courts Letter) reaffirmed the need to ensure meaningful access to programs and services outside the courtroom under Title VI. See: **Appendix K**. The letter clarified the court's obligation to ensure access to services outside of the courtroom and highlighted the expectation that courts are to provide meaningful access for LEP persons to court operated or managed points of public contact in the judicial process, whether the contact at issue occurs inside or outside the courtroom.³¹

The 2010 Courts Letter explained that courts must consider all of the ways in which the court comes into contact with the public to ensure access to services and programs provided by or within the court building. DOJ stated it is essential that courts provide language services in the following areas of contact with the public: the "clerk's offices, self-help centers, signs, websites, forms, court offered services, and court-appointed professionals including counsel, psychologists, mediators and other professionals who need language services to assist them in their interactions with LEP individuals."³² This was reiterated by DOJ in a 2016 report entitled, "Language Access in State Courts."³³

In planning how to provide language services to LEP individuals outside of the courtroom, courts should consider factors set out in the *Guidance*:³⁴

1. Number or proportion of LEP people in the court's jurisdiction;
2. Frequency with which LEP individuals come into contact with the court;
3. The nature and importance of the program, activity or service provided by the court to the LEP person (including the consequences of lack of language services or inadequate services); and
4. Resources available to the court locally and statewide and costs.

These factors are included to help recipients determine the extent of the obligation in their programs, not whether meaningful access is provided at all. The *Guidance* points out that "the more important the activity, information, service or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed....A [federal funding] recipient needs to determine whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual."³⁵ The *Guidance* explains how "[d]ecisions by a Federal, State or local entity to make an activity compulsory...can serve as strong evidence of the program's importance."³⁶ Examples of programs or services that are often made compulsory by courts in civil cases include parenting

³¹ Cf., In Re Khan, 183 Wn 2d 679, 363 P.3d 577 (2015).

³² Id.

³³ Language Access in State Courts, U.S. Department of Justice, Civil Rights Division, Federal Coordination and Compliance Section, September 2016, at 5.

³⁴ Id. at Section V, pp. 41459 – 41461.³⁵ Id. at Section (3), p. 41460.

³⁵ Id. at Section (3), p. 41460.

³⁶ Id.

classes, mandatory mediation or arbitration, and settlement conferences.³⁷ The *Guidance* reminds courts to ensure that eligible LEP individuals in criminal cases have equal access to programs that will give them an opportunity to avoid or lessen confinement as part of a criminal sentence, including such programs as anger management, counseling, domestic violence treatment, and substance abuse counseling.

The Courts Letter clearly identifies that the practice of some states to provide language assistance services only for courtroom proceedings is insufficient:

“Some states provide language assistance only for courtroom proceedings, but the meaningful access requirement extends to court functions that are conducted outside the courtroom as well. Examples of such court-managed offices, operations, and programs can include information counters; intake or filing offices; cashiers; records rooms; sheriff’s offices; probation and parole offices; alternative dispute resolution programs; pro se clinics; criminal diversion programs; anger management classes; detention facilities; and other similar offices, operations, and programs. Access to these points of public contact is essential to the fair administration of justice, especially for unrepresented LEP persons. DOJ expects courts to provide meaningful access for LEP persons to such court operated or managed points of public contact in the judicial process, whether the contact at issue occurs inside or outside the courtroom.”³⁸

In addition to these out of court interactions, special consideration must be given to communications between court-appointed or court-supervised personnel and their interactions with LEP individuals. The 2010 DOJ letter to state courts recognized that,

“Some recipient court systems have failed to ensure that LEP persons are able to communicate effectively with a variety of individuals involved in a case under a court appointment or order. Criminal defense counsel, child advocates or guardians ad litem, court psychologists, probation officers, doctors, trustees, and other such individuals who are employed, paid, or supervised by the courts, and who are required to communicate with LEP parties or other individuals as part of their case-related functions, must possess demonstrated bilingual skills or have support from professional interpreters. In order for a court to provide meaningful access to LEP persons, it must ensure language access in all such operations and encounters with professionals.”³⁹

Included in this consideration is the provision of interpreters for court-appointed attorneys in both civil and criminal cases. Under Washington General Rule 33, Requests for Accommodations by Persons with Disabilities, an appropriate reasonable accommodation is the appointment of counsel necessary to ensure that the proceedings are readily accessible to the qualified person with a disability. In addition to GR 33, courts appoint attorneys for litigants in a variety of settings including indigent defense, dependencies, and guardianships. When a court appoints an attorney to represent an LEP litigant in a civil or criminal case, the court must ensure that the appointed attorney

³⁷ Id. at pp. 41471 – 41472.

³⁸ DOJ 2010 Letter at 3.

³⁹ DOJ 2010 Letter to State Court Chief Justices and State Court Administrators

and the LEP individual are able to communicate. This may be by appointment of a bilingual attorney who is able to communicate directly in the LEP person's language, or by appointment of a qualified interpreter to assist the court-appointed attorney and client when they do not share a language. When the court appoints a bilingual attorney, the court should not rely on self-identification of language fluency but should ensure that the attorney is fluent in the LEP person's language.

The *Guidance* indicates that courts are to consider the appropriate mix of language access services that are necessary to ensure access to all points of public contact with the court. Courts can meet their obligation through a robust language access program which includes use of certified and registered interpreters for legal proceedings, but which also employs qualified bilingual staff for out-of-court direct communications with LEP persons, telephone and video interpreter services, and translations of written and electronic content to provide information and access.

3. Title VI Regulations require Courts to Provide Access to Translated Materials for LEP Individuals.

Title VI regulations have long required recipients to translate vital information to ensure that LEP individuals are provided meaningful access to federal funded programs and activities.⁴⁰ The *Guidance* directs recipients to consider whether or not a document is "vital" and should be translated. Whether a document is considered "vital" is determined by the importance of the program or service it involves, and the consequence to the LEP person if the information provided by or submitted via the document is not conveyed accurately or in a timely manner. For example, applications for drug and alcohol counseling would be "vital," applications for a bicycle safety course would not. Documents that may be "vital" include intake forms with the potential for important consequences, applications to participate in a court-ordered program or activity, and written notices of rights.⁴¹

Where there are a significant number of LEP individuals who speak a particular non-English language served or eligible to be served by a local jurisdiction, the court should provide court forms, notices, applications, and other vital documents translated into that particular language. Some examples of such forms that should be translated are "how-to" materials helping unrepresented people navigate the family court process as well as information for domestic violence survivors. Conversely, where the number of LEP individuals who speak a particular language is small, providing an interpreter to translate the documents orally would suffice.⁴² Ultimately, courts must develop language assistance procedures to ensure access to written materials – either by providing translation of written documents or providing access to written materials by way of sight translation by an interpreter upon request. It is also critical that the translations are accurate. Translator qualifications and a recommended translation protocol are discussed in Section C 6, below.

B. Interpreter Services and Written Documents for D/HH/DB Persons

1. Federal and Washington Law Require that D/HH/DB Persons be provided with Competent Interpreters in all Court Proceedings.

⁴⁰ *Colwell*, 558 F.3d at 1126 (citing 28 C.F.R. § 42.405(d)(1))

⁴¹ 67 Fed. Reg. 117 at 41463.

⁴² *Id.*

As discussed above, access to courts for D/HH/DB individuals, where the reasonable accommodation requested is a sign language interpreter, falls within the context of the LAP that each court must develop. This section identifies the legal authority and relevant considerations to ensure effective communication for D/HH/DB individuals as they access courts. Where a disabled individual is requesting a different type of reasonable accommodation to meet his or her communication needs, this plan is not the appropriate guide.⁴³ Each court's Americans with Disabilities Act (ADA) plan or policy will describe the requirements for delivery of ADA accommodations more generally for disabled individuals, and should include removing communication barriers by providing auxiliary aids and services which allow a person with a disability to effectively work in the courts, represent a client, be a party in a lawsuit, testify as a witness, serve on a jury, or observe a hearing or trial.

The legal authority to provide interpreter services for D/HH/DB individuals comes from the ADA, State law, and court rule.⁴⁴ The ADA differs from the Civil Rights Act of 1964 in that the ADA mandates apply not just to recipients of federal financial assistance. The ADA has five Titles: Employment, State and Local Governments, Places of Public Accommodation, Transportation and Telecommunications. The ADA prohibits discrimination on the basis of disability in all these settings. Under Title II of the ADA, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs or activities of a public entity, including state and local governmental agencies.⁴⁵ This prohibition applies to state courts as providers of public programs and services. People with disabilities are to be given an equal opportunity to access, use, and fully participate in court services and programs. The ADA sought to eradicate barriers for persons with disabilities so that they could participate in the full spectrum of civic life. In the case of deaf individuals accessing courts, this can occur in many ways. The deaf person may be a litigant or party to the action, a witness, a parent or guardian of a litigant, a juror, and even a court observer. Under the ADA, courts are required to provide reasonable accommodations, such as sign language interpreters, for persons with hearing loss who serves in any of those aforementioned role(s).

The ADA provides access to allow a person with a disability to fully participate in the program or activity through a process known as request for a reasonable accommodation. A court must provide the reasonable accommodation unless doing so would be a fundamental alteration of the program or service or would result in an undue financial burden, taking into consideration the budget of the entire program. When the requested accommodation relates to communication, the ADA requires that the accommodation must provide effective communication, meaning that "whatever is written or spoken must be as clear and understandable to people with disabilities as it is for people who do not have disabilities."⁴⁶ When choosing an aid or service, Title II entities are required to give primary consideration to the choice of aid or service requested by the person who has a communication disability.⁴⁷ The state or local government must honor the person's choice, unless it can demonstrate that another

⁴³ See http://www.courts.wa.gov/committee/?fa=committee.display&item_id=1157&committee_id=143

⁴⁴ Americans with Disabilities Act of 1990 (42 U.S.C. §§12101-12213 (2000)), Revised Code of Washington 2.42, and GR33. See also: <http://courts.mi.gov/Administration/SCAO/OfficesPrograms/Documents/access/ADA%20FAQ%20for%20Tribunal%20Courts.pdf>

⁴⁵ 28 CFR Part 35

⁴⁶ <http://www.ada.gov/pccatoolkit/chap3toolkit.htm>

⁴⁷ Id.

equally effective means of communication is available, or that the use of the means chosen would result in a fundamental alteration or in an undue burden. When the requested accommodation is a sign language interpreter, provision of the interpreter necessarily requires that the interpreter services provided be qualified. Legal settings require specialized skills and the use of certified interpreters should be prioritized. ASL interpreter qualifications and use of intermediary interpreters are discussed in Section C (3) below.

Washington State Statute RCW 2.42 governs delivery of interpreter services for D/HH/DB persons in Washington courts. In establishing RCW 2.42, the legislature stated, "It is hereby declared to be the policy of this state to secure the constitutional rights of deaf persons and of other persons who, because of impairment of hearing or speech, are unable to readily understand or communicate the spoken English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them." RCW 2.42.010. The ADA and the relevant Washington RCW contemplate appointment of interpreter services to provide equal access to courts not only by parties, witnesses, parents or guardians, but also by D/HH/DB individuals in the role of juror or member of the public observing court proceedings. RCW 2.42.120 provides for appointment of interpreters for deaf individuals in the following instances:

- (1) If a hearing impaired person is a party or witness at any stage of a judicial or quasi-judicial proceeding in the state or in a political subdivision, including but not limited to civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a hearing impaired person may be subject to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.
- (2) If the parent, guardian, or custodian of a juvenile brought before a court is hearing impaired, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.
- (3) If a hearing impaired person participates in a program or activity ordered by a court as part of the sentence or order of disposition, required as part of a diversion agreement or deferred prosecution program, or required as a condition of probation or parole, the appointing authority shall appoint and pay for a qualified interpreter to interpret exchange of information during the program or activity.
- (4) If a law enforcement agency conducts a criminal investigation involving the interviewing of a hearing impaired person, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. Whenever a law enforcement agency conducts a criminal investigation involving the interviewing of a minor child whose parent, guardian, or custodian is hearing impaired, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(5) If a hearing impaired person is arrested for an alleged violation of a criminal law the arresting officer or the officer's supervisor shall, at the earliest possible time, procure and arrange payment for a qualified interpreter for any notification of rights, warning, interrogation, or taking of a statement. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(6) Where it is the policy and practice of a court of this state or of a political subdivision to appoint and pay counsel for persons who are indigent, the appointing authority shall appoint and pay for a qualified interpreter for hearing impaired persons to facilitate communication with counsel in all phases of the preparation and presentation of the case.

Additionally, in an effort to provide persons with disabilities access to any activities afforded the general public, Washington State's Law Against Discrimination, RCW 49.60, prohibits discrimination based on disability in places of public accommodation. General Rule 33, regarding Requests for Accommodations for Persons with Disabilities, provides additional guidance to courts on the provision of accommodations for persons with disabilities. The process in some Washington Courts is to use the GR 33 form for requesting accommodations; however, courts must ensure that the form itself and the process for requesting the accommodation does not become an additional barrier for persons with disabilities.

These mandates regarding the delivery of interpreter services in legal proceedings require courts to provide sign language interpreter services, when requested, by qualified individuals, and in a timely manner. Under both Federal and State law, the court may not charge for the cost of providing the accommodation. A disabled party may not be asked to obtain a fee waiver for interpreter services or in any way be charged or taxed for the cost of services; nor should any policy developed by a local court create barriers to requesting these services. Notice of the availability of interpreter services must be posted along with notice of other broader accommodations available and required by the ADA including the process to request and obtain the accommodation.

Under RCW 2.42.150 (1), the right to a qualified interpreter may not be waived except when (a) a D/HH/DB person requests a waiver through the use of a qualified interpreter (b) the counsel, if any, of the D/HH/DB person consents; and (c) the appointing authority determines that the waiver has been made knowingly, voluntarily, and intelligently. This necessarily requires discussion of the waiver through a qualified interpreter, on the record, to ensure a knowing, voluntary waiver. If no qualified interpreter is available, the only option available is to reschedule the hearing until an interpreter is available.

2. Interpreter Services Must be provided for D/HH/DB Individuals for Out of Court Contact with Court Staff and other Court-Related Services.

Federal and State law require equal access to all programs and services for persons with disabilities. The ADA prohibits discrimination by state and local governments in all of its operations. RCW 2.42 requires courts to appoint and pay for interpreters for D/HH/DB individuals beyond legal proceedings. RCW 2.42.120 (3) states that "[I]f a hearing impaired person participates in a program or activity ordered by a court as part of the sentence or order of disposition, required as part of a diversion agreement or deferred prosecution program, or required as a condition of probation or parole, the appointing authority shall appoint and pay for a qualified interpreter to interpret

exchange of information during the program or activity.”

Similar to the requirements for LEP individuals, courts must ensure that all services provided or offered in the courthouse are accessible to D/HH/DB individuals. This includes the clerk’s office and other programs operated from within the court building. Because many of the out-of-court interactions are not pre-scheduled, special considerations and planning are necessary to ensure access. The courts have some flexibility in the methods used to provide services but must ensure that the method provided results in effective communication. Due to the nature of American Sign Language, telephonic interpreter services are not accessible nor are they appropriate. Bilingual staff may be positioned at critical points of public contact or courts may consider contracting with a video remote interpreter service to provide for on-demand ASL interpretation by video monitor. This requires advanced planning, contracting, and equipment, and should be done thoughtfully, by connecting with agencies serving D/HH/DB clients to ensure that any program developed has input from the community and is appropriate to meet the communication needs of those it is designed to serve. As discussed below, writing back and forth with a deaf person may not be an effective means of communication, depending on the individual’s language needs. Accordingly, to allow a person with a disability to fully participate in the program or activity, courts should develop procedures to allow for on-demand ASL interpreter services, including use of video remote interpreter services.⁴⁸

3. Written Documents must be Sight Translated or Otherwise Made Accessible by a Qualified Interpreter if Necessary for the D/HH/DB Person to Have Equal Access.

Translation of written documents is defined as rendering text from one written language into another written language. Translation is not applicable in situations involving making written English documents accessible in American Sign Language, which has no written form. ASL has its own sentence structure, grammar, and syntax. It uses English gloss words, meaning the text of a given sign has an English “label,” but that is the extent of the similarities between ASL and English. Written English, because of the differences in grammar and syntax, is often not comprehensible for some D/HH/DB individuals for whom English is a second language and is therefore not an effective means of communicating. Studies show that the median reading level of deaf high school graduates is fourth grade.⁴⁹

The deaf community is not homogenous in their ability to comprehend written English, so an individualized approach is necessary; courts must ask if documents in written English are accessible to the individual and provide an accommodation when they are not. Written communications, in this context, have two distinct uses. The first is English forms, applications, online materials and other notices that are printed for which interpretation may be required to make them accessible when the deaf individual indicates that there is a language barrier to the written English. The second is the use of written messages in an attempt to communicate with a deaf person in the absence of an interpreter. It may be appropriate for staff to seek to communicate by writing back and forth with a deaf person, but if the person indicates he or she is not able to

⁴⁸ Video remote interpreting is a fee-for-service model where a court would contract with a provider and purchase equipment necessary to connect the court personnel and deaf individual with a sign language interpreter who is in a remote location.

⁴⁹ How Do Profoundly Deaf Children Learn to Read? Learning Disabilities Research and Practice, 16(4) 222-229. Copyright 2001, The Division for Learning Disabilities of the Council for Exceptional Children.

communicate in that manner - through written English – court personnel must consider alternate means of communicating, including the provision of interpreter services.

Sight translation is defined as rendering a written text in one language into a verbal or spoken interpretation in another language and it may be possible for a D/HH/DB to understand a written document with an ASL interpreter doing a sight translation. A document written in English must be either “sight translated” into ASL by a qualified interpreter or provided in some other format to make it accessible. In some circumstances where the individual will need to consult the document again, this should include provision of an electronic version of the document that has been rendered into sign language and recorded for the individual to access in the future.

Where an individual is deaf-blind, written documents may need to be converted to Braille or sent electronically in a format compatible with screen-readers, depending on the communication mode of the individual requesting the accommodation. Braille is not technically a translation because it is not rendering the written message from one language to another. Braille is a tactile reading system comprised of raised dots on a page. Not all deaf-blind individuals read Braille, but where an individual indicates he or she prefers written communication in Braille, courts should provide the documents in Braille. Some deaf-blind individuals may request large print materials as a reasonable accommodation and the individual should specify the size and type of font needed for the re-created document. Other deaf-blind individuals prefer to use technology-based tools, such as screen readers to make written documents accessible. Court staff should ask the individual about their preference for receiving written documents.

Courts must be careful to not provide lesser services to a D/HH/DB individual than would be provided to a person who is able to read, write, and speak English. If two-way communication is accessible to hearing individuals, two-way communication must be available to persons with disabilities to ensure equal access. Two-way communication means that there is an opportunity to ask questions or seek clarification or to communicate a response. Written documents are a routine part of court interactions; however, for the reasons described above, courts should be cautious when attempting to substitute language or interpreter services with written materials when interacting with D/HH/DB persons. Because telephonic interpreter services are not appropriate, advanced planning by the court to establish alternative interpreter services methods, such as video remote interpreting, is necessary to ensure access. This is also critical to avoid defaulting to written communication in settings outside the courtroom where interactions are often unplanned and unscheduled.

C. Qualifications for Interpreters Working with LEP and D/HH/DB Individuals in Legal Settings

Washington’s court interpreter statutes govern interpreter qualifications for both spoken and sign language interpreters and cover knowledge of ethical requirements, ability to speak both English and the interpreted language, and skill in interpreting. In addition to state statutes and court rules, national standards exist for interpreter assessment and credentialing. Given the importance of the interaction and the complexity of the communication occurring in legal settings, such standards support the appointment of well-qualified interpreters for legal proceedings.

1. All Court Interpreters Must Comply with the Code of Conduct for Court Interpreters, Regardless of their Credentials.

Qualification as a court interpreter requires demonstrating an understanding of and adherence to the relevant performance standards for court interpreters, which in Washington State are governed by GR 11.2, Code of Conduct for Court Interpreters. Interpreters who are certified or registered by Washington Courts are permanently sworn to adhere to the Code. Not all interpreters working in a courtroom will be certified or registered by the court, either because the particular language is neither certified nor registered, or because no credentialed interpreter was available. However, regardless of an interpreter's credentials, RCW 2.43.080 requires all interpreters serving in a legal proceeding to abide by the Code of Conduct for Court Interpreters established in GR 11.2. Generally, the Code of Conduct incorporates such principles as accuracy, neutrality, confidentiality. **See Appendix D.**

RCW 2.43.080 Code of Ethics

All language interpreters serving in a legal proceeding, whether or not certified or qualified, shall abide by a Code of Ethics established by Supreme Court rule.

Washington State certified and registered interpreters have been trained and tested on GR 11.2. ASL Interpreters are also trained on the Code of Conduct, pursuant to WAC 388-818-530. **See Appendix D.** Further, all interpreters have access to the Code as well as comments on the Code of Conduct for further clarification of the obligations on court interpreters. **See Appendix E.**

American Sign Language interpreters certified by the Registry of Interpreters for the Deaf also must maintain adherence with the NAD- RID Code of Professional Conduct.⁵⁰

2. Qualifications of Spoken Language Interpreters Under RCW 2.43, Delivery of Services for Limited English Proficient Individuals.

The Washington court interpreter statute governing delivery of interpreter services for Non-English Speaking Persons (RCW 2.43.030, reproduced below) directs courts on the qualifications required for interpreters used for legal proceedings. The statute requires that courts use a credentialed (certified or registered) interpreter if the AOC has credentialed interpreters in a given language. While the statutory language of 2.43 refers only to certified interpreters, this LAP also discusses registered interpreters since AOC's Interpreter program has developed a robust testing system which provides testing of interpreters, depending on the language, in either certified or registered categories.

In 1990, the AOC began certifying spoken language interpreters. Subsequently, Washington joined forces with Oregon, New Jersey, and Minnesota to combine testing resources, which led to the development of national court interpreter testing standards, and an array of exams that are now made accessible to all state court systems. Since that time, testing has become available in many languages. Washington Courts have chosen to provide testing and assessment in two ways: *certification* in 12 languages

⁵⁰ NAD-RID Code of Professional Conduct available at:
https://drive.google.com/file/d/0B-_HBAap35D1R1MwYk9hTUuc3M/view?pref=2&pli=1

and registration in 67 languages.⁵¹

Under RCW 2.43, courts must first make efforts to appoint a certified or registered interpreter. If “good cause” is found by the court for appointing an interpreter that is not certified or registered and such “cause” is noted on the record, the court is still required to use a “qualified interpreter” and shall determine that the proposed interpreter is sufficiently knowledgeable and trained to provide interpreting using the process described below in RCW 2.43.030 (2). If the court must qualify an interpreter from the bench, judicial officers are encouraged to use the list of questions contained in **Appendix C** and on the Court Interpreter Bench Card, **Appendix L**.

RCW 2.43.030 Appointment of Interpreter

(1) Whenever an interpreter is appointed to assist a non-English-speaking person in a legal proceeding, the appointing authority shall, in the absence of a written waiver by the person, appoint a certified or qualified interpreter to assist the person throughout the proceedings.

(a) Except as otherwise provided for in (b) of this subsection, the interpreter appointed shall be a qualified interpreter.

(b) Beginning on July 1, 1990, when a non-English-speaking person is a party to a legal proceeding, or is subpoenaed or summoned by an appointing authority or is otherwise compelled by an appointing authority to appear at a legal proceeding, the appointing authority shall use the services of only those language interpreters who have been certified by the Administrative Office of the Courts, unless good cause is found and noted on the record by the appointing authority. For purposes of chapter 358, Laws of 1989, "good cause" includes but is not limited to a determination that:

(i) Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of a certified interpreter are not reasonably available to the appointing authority; or

(ii) The current list of certified interpreters maintained by the Administrative Office of the Courts does not include an interpreter certified in the language spoken by the non-English-speaking person.

(c) Except as otherwise provided in this section, when a non-English-speaking person is involved in a legal proceeding, the appointing authority shall appoint a qualified interpreter.

(2) If good cause is found for using an interpreter who is not certified, or if a qualified interpreter is appointed, the appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the non-English-speaking person, that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the

⁵¹ This list changes over time as the demographics in Washington State change and as new tests are made available by the National Center for State Courts. The current languages being certified or registered in Washington can be found at: http://www.courts.wa.gov/programs_orgs/pos_interpret/index.cfm?fa=pos_interpret.display&fileName=becomingACourtInterpreter

record that the proposed interpreter:

(a) Is capable of communicating effectively with the court or agency and the person for whom the interpreter would interpret; and

(b) Has read, understands, and will abide by the Code of Ethics for language interpreters established by court rules.

To become a spoken language *certified* court interpreter in Washington State, a person must pass both an English written and a bilingual oral interpreting exam. The oral interpreting exam tests the three primary modes of interpretation: consecutive, simultaneous, and sight translation. To become a spoken language *registered* court interpreter in Washington State, a person must pass an English written exam and an oral proficiency interview (OPI) which tests the person's ability to speak and comprehend the non-English language. The OPI does not test interpreting abilities. These exams are administered by the AOC Court Interpreter Program. Additionally, the interpreter candidate must pass a criminal background check and sign an Oath of Interpreter witnessed by a judge before their certification or registration process is complete.

As part of the certification and registration process, the AOC issues credentialed interpreters an ID badge containing their picture, credential status, language, and expiration date. So long as the interpreter is in good standing, he or she is considered permanently sworn in during this period. All currently certified and registered court interpreters can be found on AOC's court interpreter directory, found at http://www.courts.wa.gov/programs_orgs/pos_interpret/.

As a condition of maintaining their status as a court interpreter, credentialed court interpreters must complete a specified number of continuing education credits per biennium. Currently, certified and registered interpreters must complete 16 hours of AOC approved continuing education each two-year compliance period. Of the 16 required hours, at least (2) must be earned in ethics-specific educational activities; at least eight (8) must be earned in performance or skills based educational activities; and the remaining six (6) may be general continuing educational activities. Ethics-specific or performance/skills based education activities may be used to accrue the needed general continuing education credits.⁵² Failure to comply with these conditions may result in decertification or deregistration. The Discipline Committee of the Interpreter Commission oversees interpreter compliance with continuing education and court hour requirements.

3. Qualifications of Sign Language Interpreters, RCW 2.42 and WAC 388-818 500 Regarding Delivery of Interpreter Services for D/HH/DB Individuals

The Washington court interpreter statute governing interpreter services for D/HH/DB individuals in legal proceedings (RCW 2.42 reproduced below) directs courts to appoint a qualified interpreter for D/HH/DB individuals and obtain such interpreters from a list of qualified interpreters maintained by the Department of Social and Health Services, Office of Deaf and Hard of Hearing (ODHH). RCW 2.42.130 governs the delivery of

⁵²http://www.courts.wa.gov/programs_orgs/pos_interpret/index.cfm?fa=pos_interpret.display&fileName=c continuingEducationForInterpreters

these services and specifies the source of qualified interpreters, as follows:

(1) If a qualified interpreter for a hearing impaired person is required, the appointing authority shall request a qualified interpreter and/or an intermediary interpreter through the department of social and health services, office of deaf services,⁵³ or through any community center for hearing impaired persons which operates an interpreter referral service. The office of deaf services and these community centers shall maintain an up-to-date list or lists of interpreters that are certified by the state and/or by the registry of interpreters for the deaf.

(2) The appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the hearing impaired person, that the interpreter is able in that particular proceeding, program, or activity to interpret accurately all communication to and from the hearing impaired person. If at any time during the proceeding, program, or activity, in the opinion of the hearing impaired person or a qualified observer, the interpreter does not provide accurate, impartial, and effective communication with the hearing impaired person the appointing authority shall appoint another qualified interpreter. No otherwise qualified interpreter who is a relative of any participant in the proceeding may be appointed.

Because the statutory language in 2.42 regarding appointing a “qualified” interpreter was left undefined, and because there were concerns regarding the lack of clarification of what a “qualified” interpreter means in this context, the AOC collaborated with ODHH to revise Washington Administrative Code 388-818-500 to clarify which ASL interpreters are qualified to work in court settings, and to provide guidance to courts to better serve this population. Washington’s Court Interpreter Program does not administer the exam for court certification of ASL interpreters, but instead has partnered with ODHH to develop a set of criteria to determine appropriate qualifications for sign language interpreters working in courts using national certification standards developed by the Registry of Interpreters for the Deaf (RID).⁵⁴ Together, AOC and ODHH partnered on development of WAC 388-818-520 to establish the qualifications that would be considered “certified” court interpreters for American Sign Language.

WAC 388-818-520 regarding requirements for certified court sign language interpreters includes two categories of court interpreters for sign language interpretation that are most qualified to work in Washington Courts with hearing-impaired individuals: (1) certified court sign language interpreters; and (2) certified court intermediary interpreters. WAC 388-818-600 directs courts to first seek out certified court sign language interpreters. Under WAC 388-818-530, a certified court sign language interpreter is presumed to be the most qualified to interpret in court hearings. To qualify as a certified court sign language interpreter, the interpreter must possess: 1) Specialist Certificate: Legal (SC:L) from the RID; or 2) RID generalist certification and having passed the SC:L written test. Under WAC 388-818-540, certified court intermediary interpreters are presumed to be the most qualified to interpret in court hearings because of their training, skills, and experience. To qualify as a certified court intermediary interpreter, an interpreter must hold a current certified deaf interpreter (CDI) certification from the registry of interpreters for the deaf. In each case or hearing, courts are encouraged to make every effort possible to hire certified court sign language

⁵³ RCW 2.42 refers to the Office of Deaf Services; however, the agency name is Office of Deaf and Hard of Hearing, website found at: <https://www.dshs.wa.gov/altsa/office-deaf-and-hard-hearing>

⁵⁴ <http://rid.org/rid-certification-overview/>

interpreters and determine whether an intermediary interpreter is necessary.

Courts are strongly encouraged to secure the services of a team of interpreters, one sign language interpreter accompanied by an intermediary interpreter, in all communication encounters. Under WAC 388-818-0040, a "certified court sign language interpreter" means a sign language interpreter who meets the qualifications outlined in WAC 388-818-600 and is included on the list administered by ODHH. A "certified court intermediary interpreter" means an interpreter who is deaf who meets the qualifications required in this chapter and is included on the list administered by the ODHH. The intermediary interpreter is deaf or hard of hearing and possesses native or near native fluency in ASL. An intermediary interpreter may be needed when the communication mode of the deaf consumer is so unique that interpreters who are hearing cannot adequately access it. An intermediary interpreter acts as an intermediary between a hearing sign language interpreter and the deaf consumer and is appropriate when the communication mode or language of the D/HH/DB person is not readily interpretable.⁵⁵ Depending on the length of the assignment, two certified court sign language interpreters and two certified court intermediary interpreters may be required.

Certified ASL interpreters, both hearing and deaf, are required by the certifying body, RID, to take continuing education courses to maintain their certifications. Certified ASL interpreters must complete 80 hours of continuing education credits every 4 years.⁵⁶ ASL court certified interpreters will also be issued a Washington Courts ID badge.

4. Verification of Credentialed⁵⁷ Status of Court Certified and Registered Interpreters

Courts are strongly encouraged to verify an interpreter's certification/registration status by checking the court interpreter directory as part of the process of hiring or contracting with an interpreter to interpret in court. If not done in advance, courts should still verify the interpreter's credentials either by checking the court website or viewing his or her AOC or ODHH-issued ID badge. Once interpreters become certified or registered, either spoken language or sign language, their contact information is accessible on the Washington Courts online searchable interpreter database maintained on the AOC website. The AOC online directory is the only directory where up-to-date information on an interpreter's court certification or registration status is accessible to the courts and the public. As part of the certification and registration process, the AOC and ODHH issues to their credentialed interpreters an ID badge containing their picture, credential status and language, and an expiration date. So long as the interpreter is in good standing, he or she is considered permanently sworn in during this period.

5. Qualification Considerations for Interactions with LEP and D/HH/DB Individuals and Court Staff, Supervised Personnel, and Court-Appointed Professionals Outside of the Courtroom

RCW 2.42 and RCW 2.43 provide information and guidance on the qualification of interpreters working in legal proceedings. Because language services occur in many settings outside of the courtroom, courts should develop procedures for ensuring

⁵⁵ RCW 2.42.140

⁵⁶ <http://rid.org/continuing-education/certification-maintenance/>

⁵⁷ Here, credentialed refers to specific testing and assessments done by the AOC for court interpreters, including certification and registration.

appropriate qualifications for all individuals working as interpreters in the court, regardless of the setting. This should include use of assessment tools for bilingual staff. Many interactions within the courthouse consist of complex communications and may warrant the same level of credential as the interpreters used for legal proceedings; however, some interactions, such as at an information desk, may not require a court-certified or registered interpreter to effectively communicate the information.

Bilingual staff can play a critical role in providing access to such services as clerk's offices, information counters, and other programs and services offered by an individual court. When a court includes bilingual staff in a language access plan, it is important to distinguish between the task of direct communications with LEP persons versus interpretation. Bilingual staff are appropriately tasked with communicating directly with LEP persons to communicate court information; however, untrained, non-credentialed bilingual staff should not be providing interpreter services inside or outside the courtroom.

All bilingual staff should have their language fluency tested to ensure appropriate skill level in the shared language sufficient to adequately communicate. When assessing bilingual staff language proficiency, formal assessments such as those provided by companies like Language Testing International and Alta Language, which evaluate the proficiency level of the individual, should be preferred over informal assessments: self-identification as bilingual is not sufficient. Courts must ascertain the proficiency level needed for different services throughout the court and court-related programs and inform staff of these determinations.

6. Qualifications of Translators Translating Written Documents (Including Notices, Forms and Other Documents Provided to Litigants) and Should Follow the AOC Interpreter Commission's Translation Protocol to Ensure that Documents are Accurately Translated

Of roughly 6,900 languages globally, relatively few have a written form. A small number of these languages represent the highest volume of translation work, particularly in the United States. As with interpretation, translation is a specialized skill with its own training and assessment procedures, and just as interpretation, it is important for courts to work with certified translators when translating court forms. However, Washington Courts do not certify translators and therefore it is appropriate and necessary to consider alternate testing and assessment procedures. The American Translator Association (ATA) certifies translators in 10 languages (Croatian, Dutch, French, German, Italian, Japanese, Portuguese, Russian, Spanish and Swedish) for either translation from English into one of these languages or from the other language into English. This is considered multi-directional certification. The ATA also certifies translators working in only one direction in the following languages: from Arabic and Danish into English, and from English into Chinese, Finnish, Hungarian, Polish, and Ukrainian. Exams are constantly in development for additional language pairs. ATA has a directory of translators⁵⁸ available to assist courts with this work.

To assist courts in providing accurate translations, the AOC's Interpreter Commission adopted a translation protocol which guides courts on the process to help ensure a quality outcome. It provides for appropriate translator qualifications, review processes,

⁵⁸http://www.atanet.org/onlinedirectories/individuals_tabs.php

and methods for verifying accuracy prior to publication of translated materials.⁵⁹ Courts should follow the process established in the Translation Protocol of securing both a qualified translator and reviewer for all documents to ensure accuracy.⁶⁰

It is critical for courts to assess the qualifications of individuals conducting translation work for the court – either through contracted translators or bilingual staff. Frequent reports of errors in translation highlight some common mistakes made by non-professionals. Poor quality translations tend to be literal, or word-for-word renditions, making them difficult to understand, and at times simply incorrect. Good translations depend first on the qualifications of the translators, and second on the quality of the content of the written document. Many times, the English originals are written in too high a register to be useful as materials for the general public. An effort to review court documents for readability and apply plain language techniques to all court documents is encouraged and often produces a better product for all users of the written material. This review should be done prior to sending a document out for translation as changes after the fact can lead to inconsistent document translations.

In addition, courts should consider developing a translation system that includes oversight of the translation work to allow for consistent and high-quality translations. Management of translations includes having a point of contact who is familiar with the court's translation protocol, maintains a translation glossary so that terms are translated consistently across documents, and manages the updates to translations. There are software programs that allow entities to track translation projects for consistency and also for cost-savings. In the translation industry, a vast majority of translations are done by independent contractors, whether they work directly for the requester/payer or as part of a team put together by a language services provider (LSP) (also called a translation agency). In many cases, LSPs are able to coordinate the work of a translation of a single source text into multiple languages and can deal with other technical issues such as desktop publishing. If you are considering hiring an LSP for your translations, ask for the qualifications of their translators and how they screen their translators and revisers. The most critical factor for the quality of the translation is the quality of the translator/reviser team.⁶¹

D. Development of Written Language Access Plans

Washington State RCW 2.43.090 requires courts to develop a Language Access Plan (LAP)⁶² :

(1) Each trial court organized under this title and Titles 3 and 35 RCW must develop a written language assistance plan to provide a framework for the provision of interpreter services for non-English-speaking persons accessing the court system in both civil and criminal legal matters. The language assistance plan must include, at a minimum, provisions addressing the following:

⁵⁹ Washington AOC Interpreter Commission Translation Protocol, at:

<https://www.courts.wa.gov/content/publicUpload/Interpreters/Translation%20Protocol.doc>

⁶⁰[http://theatacompass.org/2013/05/22/how-to-choose-a-translation-vendor-9-tips-to-a-successful-experience/Getting it Right](http://theatacompass.org/2013/05/22/how-to-choose-a-translation-vendor-9-tips-to-a-successful-experience/Getting%20it%20Right): http://www.atanet.org/publications/getting_it_right.php

⁶¹http://www.ata-divisions.org/ID/wp-content/uploads/resources/ATA-homeland_security_response.pdf

⁶² While the RCW uses the term “language assistance plan”, this document intentionally uses the term “Language Access Plans” found in the more recent and detailed federal technical assistance tool: http://www.lep.gov/resources/courts/022814_Planning_Tool/February_2014_Language_Access_Planning_and_Technical_Assistance_Tool_for_Courts_508_Version.pdf

(a) Procedures to identify and assess the language needs of non-English-speaking persons using the court system;

(b) Procedures for the appointment of interpreters as required under RCW 2.43.030. Such procedures shall not require the non-English-speaking person to make the arrangements for the interpreter to appear in court;

(c) Procedures for notifying court users of the right to and availability of interpreter services. Such information shall be prominently displayed in the courthouse in the five foreign languages that census data indicates are predominate in the jurisdiction;

(d) A process for providing timely communication with non-English speakers by all court employees who have regular contact with the public and meaningful access to court services, including access to services provided by the clerk's office;

(e) Procedures for evaluating the need for translation of written materials, prioritizing those translation needs, and translating the highest priority materials. These procedures should take into account the frequency of use of forms by the language group, and the cost of orally interpreting the forms;

(f) A process for requiring and providing training to judges, court clerks, and other court staff on the requirements of the language assistance plan and how to effectively access and work with interpreters; and

(g) A process for ongoing evaluation of the language assistance plan and monitoring of the implementation of the language assistance plan.

(2) Each court, when developing its language assistance plan, must consult with judges, court administrators and court clerks, interpreters, and members of the community, such as domestic violence organizations, pro bono programs, courthouse facilitators, legal services programs, and/or other community groups whose members speak a language other than English. RCW 2.43.090.

The *Guidance* also strongly recommends that each court develop a written language assistance plan. A written plan creates a framework for providing reasonable and necessary language assistance to LEP persons and assists in training judges and court staff to implement the plan. In addition, a written plan is an excellent method of documenting the court's compliance with the mandate to ensure meaningful access and effective communication.

V. PURPOSE AND ELEMENTS OF A COURT LANGUAGE ACCESS PLAN

In accordance with RCW 2.43.090, each trial court must develop an LAP to provide a framework for the provision of interpreter services for non-English-speaking persons accessing the court system in both civil and criminal legal matters. The DOJ defines a LAP as a “management document that outlines how the court defines tasks, sets deadlines and priorities, assigns responsibility, and allocates the resources necessary to come into or maintain compliance with language access requirements.”⁶³ Because

⁶³ DOJ Language Access Planning and Technical Assistance Tool for Courts available at:

the AOC consolidated interpreter services for both LEP and D/HH/DB persons, this model plan addresses both groups throughout so that courts can develop procedures to ensure access for all individuals in need of language assistance services. Although each county and/or court has individualized methods of responding to requests for language assistance services, the following information should be addressed in each plan. This section also highlights the various roles that judge, clerks, and other court staff have in implementing an LAP that provides language assistance services to LEP individuals.

A. Purpose

The LAP is designed as a process for local courts to use to set goals, assess current services, and identify strategies for implementing improvements in local access to courts for both LEP and D/HH/DB individuals. Pursuant to budget proviso, the LAP must also describe local procedures for notifying LEP and D/HH/DB of their rights and for accommodating their language assistance needs. Local LAPs also require collaboration between court leadership and stakeholders to determine priorities for the court to enhance language assistance services to LEP and D/HH/DB court participants at each trial court level.

1. Language Access Plan Template

The LAP is intended to be a concise and targeted service plan to improve access to court proceedings and services for LEP and D/HH/DB individuals. The plan requires an assessment and goal setting exercise by the court leadership, taking into account the best practices and resources identified in this LEP and D/HH/DB statewide plan. Courts are encouraged to apply the Instructions and Template Guide (**Appendix A**) to create their own LAP using the Model Template format (**Appendix B**) as they go through the process of developing their LAP, with special attention to the inclusion of the following:

- Services that already exist to serve LEP and D/HH/DB impaired individuals;
- Service or language assistance gaps;
- Specific improvements to be implemented in language assistance for LEP and D/HH/DB individuals and populations; and
- Obstacles that exist to those improvements.

2. Plan Schedule

Effective June 2008, RCW 2.43.090(1) requires each trial court to create an LAP consistent with standards established by the AOC. AOC staff in turn will report periodically on LEP and D/HH/DB plan implementation and progress to the Interpreter Commission and the Board for Judicial Administration (BJA). The content of the reports will be available to the public upon request and will be available on AOC's website.

3. Local Court Practices to Provide Language Assistance to LEP and D/HH/DB Individuals

Each court is required to identify in its LAP the court's practices and procedures for providing language assistance to LEP and D/HH/DB individuals. (**See Appendix A and B**).

http://www.lep.gov/resources/courts/022814_Planning_Tool/February_2014_Language_Access_Planning_and_Technical_Assistance_Tool_for_Courts_508_Version.pdf

These include practices for:

- Notifying LEP and D/HH/DB individuals of the right and methods to obtain an interpreter, other language assistance, and emergency information;
- Identifying and assessing the language needs of LEP and D/HH/DB individuals in the court;
- Identifying and appointing interpreters;
- Providing translations of commonly used forms;
- Training judges and court personnel;
- Gathering and reporting data;
- Monitoring and ensuring compliance with the development and implementation of the LEP and D/HH/DB plan, and
- Providing a complaint process.

Each of these sections is discussed in detail below.

B. Elements of an LAP

The following elements are critical to an effective LAP and will assist in the development and implementation of such services.

1. NOTICE: Informing the Public of the Right to an Interpreter and Access to Written Materials

To ensure that LEP and D/HH/DB parties have access to interpreter services, they must be informed of their right to an interpreter free of charge for interactions occurring with the court both inside and outside of the courtroom. Courts will need to post the availability of interpreters and/or bilingual staff and the procedures to request them and include the information in all forms. Notice can be provided by signs and brochures located in prominent places in the courthouse, such as the clerk's office, lobby, and other high-traffic areas in a courthouse. The AOC has posters with notice of the right to free interpreter services available in several languages. In an area where language services have not been provided in the past, measures beyond posting of signs within the courthouse may be necessary and may include community outreach to impacted communities. Providing this notice of the right to free interpreter services within the courthouse is one aspect of notification; however, courts should also work with community organizations and ethnic media outlets, as well as conduct outreach to the local bar association, pro bono programs, courthouse facilitators, and domestic violence programs to facilitate raising awareness of the availability of, and right to, free interpreter services in their interactions with the court. These steps may be necessary to overcome existing barriers and should be considered as part of an outreach effort to inform communities impacted by a prior lack of service or those newly eligible to be served.⁶⁴

Notice requirements also extend to notifying the general public about the process a court creates to provide access to written materials produced or provided by the court. This may entail providing notice of the availability of translated materials and how to access those materials; it must also include notice of the process to access written materials for which translations are not available. Courts should notify individuals, in a language they understand, how to request oral interpretation of written documents that are not provided in translated form. This notice should be posted at points of public

⁶⁴ DOJ LEP Guidance at 41465.

contact within the courthouse.

In addition, each court must provide notice to the public of emergency information and available complaint procedures in a language they understand. Emergency information is information regarding safe exits and available shelter areas as well as other commonly available safety information. This must be provided to both LEP and D/HH/DB customers (e.g., display universally understood emergency signage and evacuation maps, clearly mark emergency exits) and courts must train court bilingual staff how to help LEP and D/HH/DB customers in case of an emergency. Identifying in writing how a court provides emergency information constitutes one of the elements of a federally compliant LAP. For the complaint process, courts must provide notice to the general public and in translated form, the process to file a complaint regarding the denial of interpreter services or the quality of the services provided.

2. Identification of those Eligible to be served by the Provider

As discussed in the introduction, language demographic data at the local level is critical to planning language assistance measures. The *Guidance* indicates meaningful access must be provided to those persons “eligible to be served, or likely to be directly affected, by” a recipient’s program or activity.⁶⁵ This necessarily requires analysis by the recipient of the languages spoken by individuals within the court’s jurisdiction and cannot be simply a reliance on the number of actual requests made for language services. Identification of the languages spoken by individuals in the service area is critical to an effective LAP’s evaluation of existing services and planning for future services.

Identification of LEP persons also includes consideration of how court staff will identify the spoken and written communication needs of an LEP person at the different points of contact with the court. When language services are requested or when a person identifies him or herself as LEP and in need of language access services, court staff should provide the language access services available under the court plan and should not second-guess the language proficiency of the individual requesting services. Additionally, when court staff identify that there is a language barrier with an individual, they should affirmatively offer language access services to the individual who may not be aware of his or her right to or the availability of free services.

Effective measures for identifying the non-English language an individual is speaking and for which interpreter services are necessary include language identification posters and I-speak cards,⁶⁶ which are written and translated messages in multiple languages and allow a person to select his or her language for court staff to then seek out appropriate interpreter services in the identified language. Finally, where the interactions with the court will be ongoing, it is important that the court develop a language identification and tracking method to ensure continuity of services within a given matter, without requiring additional requests by the LEP individual for an interpreter or translated materials.

Identification of D/HH/DB individuals and their language needs requires additional

⁶⁵ *Guidance* at 41459.

⁶⁶ Washington Courts have access to multilingual Language Identification posters and “I-Speak” cards, both of which are available from the Administrative Office of the Courts. See Section VIII.

considerations and understanding of the communication modes used by this population. First, it is important to know that not all deaf people use sign language and within the category of “sign language” there are multiple signed languages used by deaf individuals. A deaf person may use ASL, but he or she may also require an oral interpreter, a Signed Exact English (SEE) interpreter, or an interpreter trained in tactile or close visual signing for deaf-blind individuals. Interpreters have special training for some modes and not all interpreters are qualified to provide each of these services. It is critical to engage in an interactive process with deaf individuals to understand the interpreter services that are necessary to accommodate them. Because this is a LAP and is designed to address delivery of interpreter services, identification here is when a person identifies as sign language and requesting an interpreter. Other accommodations, such as Computer-Assisted Real-time Transcription (CART) services or assistive listening devices are addressed in a court’s ADA Accommodation Plan. When interpreter services are requested by a D/HH/DB individual, it is appropriate to ask the individual for preferred interpreters because the ADA requires that courts give primary consideration to the disabled person’s requested accommodation and preferred communication method. The request for a sign language interpreter must specify if the need is for an ASL interpreter, a SEE interpreter, a tactile interpreter, or an intermediary interpreter teamed with an ASL interpreter.⁶⁷

3. Provision of Interpreter Services: How to Request an Interpreter

This section of the court Language Access Plan should identify the specific interpreter services available to court staff and how to access them. Courts should develop specific procedures for requesting and providing interpreter services for all legal proceedings, for interactions outside the courtroom, and for emergency situations. This section of the LAP explains the process the court has created for requesting, providing, and tracking delivery of interpreter services for court proceedings and should identify any specific staff or office responsible for this coordination. Each court must ensure that out of court services are also accessible to LEP and D/HH/DB persons through the use of bilingual staff, in-person interpreters, or telephonic or video assistance and provide the procedures for staff to secure interpreter services in these settings. Examples of such services include courthouse facilitators, parenting classes, mandatory mediation or arbitration, and settlement conferences.⁶⁸

Special planning and consideration for delivery of interpreter services should be given for interactions with the court that occur with little to no advanced planning. Here, courts should consider and develop a system to provide interpreter services in ad hoc interactions – where litigants approach the clerk’s counter, information desks, and even ex parte calendars – in need of information and services. The interpreter services section of the LAP should provide guidance to staff on providing these important services and provide staff with the system and processes to do so.

4. Provision of Translation Services: Access to Translated Documents and Information

This section should provide the policy and procedures for the translation of local court documents, forms, notices, and electronic information. The translation services provided by a court must be consistent with the AOC Interpreter Commission’s translation

⁶⁷ For more information on intermediary interpreters, see the Interpreter Qualifications Section.

⁶⁸ Federal Register, Volume 67, Number 117, pp. 41471 – 41472.

protocol and the court's LAP must identify the procedures in place to ensure quality translations. This section of the LAP identifies the results of the review and identification of vital documents and information, and identifies documents for which translations are available, and as well as the languages translated. This is also the appropriate section to identify the plan for future court translations, how to request a translation by court personnel, and identification of personnel responsible for overseeing court translations. The Interpreter Program and the Pattern Forms Committee have developed protocols and standards for translation of legal forms, orders and brochures and provide some translated forms and notices on the AOC website.⁶⁹ When a court creates a local form, it should determine the languages into which the form will be translated and plan for future translations. The translation section should also identify notices, applications, and other vital documents or information for which translations will be provided and how to obtain the translations.

Websites and online resources have become a common way that courts interact with the public; therefore access to translated materials extends to a court's website. Written materials available to the public on a court website should be reviewed and vital information should be translated. At a minimum, a court's website should provide notices of the availability of interpreter services that are translated in multiple languages and are readily available on the website or a particular webpage. To the extent that courts use websites to provide information and services, courts should ensure meaningful access to these programs for LEP and D/HH/DB persons. The LAP developed by a local court should evaluate websites, electronic content, and written materials to assess which information is vital and then develop a plan to provide LEP and D/HH/DB individuals' access to translated versions of that content and information. Courts are encouraged to think creatively to provide access to written information including access to written materials through audio or video recordings to replace written text with an audio message in multiple languages. This is also important for D/HH/DB individuals who do not read written English.

This section of the LAP must also provide guidance to staff that online translation tools are not appropriate for most interactions within a courthouse. Online translation tools are software programs designed to create automated translations through a process by which computer software is used to translate a text from one natural language (such as English) to another (such as Spanish). Despite advancement, machine translations alone are not reliable enough to use in a setting such as court interactions. This is because machine translation tools, such as Google Translate, "do not have a high level of reliability," according to a study conducted by the National Center for State Courts.⁷⁰ Therefore, it would be inappropriate to rely on machine translation software tools to communicate with LEP individuals.

5. Staff Training⁷¹

Staff should know their obligations to provide meaningful access to information and services for LEP persons and should be made aware of the specific LAP and any related policy and procedures adopted by the court. This section of the LAP should identify the specific trainings the court provides to all relevant court staff on the court's

⁶⁹ <http://www.courts.wa.gov/forms/>

⁷⁰ https://www.ncsc.org/education-and-careers/state-interpreter-certification/~/_media/files/pdf/education%20and%20careers/state%20interpreter%20certification/guide%20to%20translation%20practices%206-14-11.ashx

⁷¹ <http://nmcenterforlanguageaccess.org/cms/en/courts-agencies/about-language-access-basic-training>

adopted language assistance measures, including all interpreter services policies and procedures adopted by the court. Training of staff should occur at regular intervals, both for new court employees and as part of ongoing trainings for all court staff. In addition to training all court staff on the LAP policy and procedures, staff having contact with the public must be trained to work effectively with in-person and telephone interpreters. It is important to ensure that all employees in public contact positions are adequately trained. The more frequent the contact with LEP persons, the greater the need will be for in-depth training.

Courts should develop systems to ensure that all staff receive initial training as part of the orientation for new employees. The New Court Employee training provided by the AOC includes information on interpreter services; however, it alone is not sufficient to train staff on a court's particular LAP and procedures. Courts can develop online resources and training materials on the LAP and related policy and procedures to ensure the timely training of all court staff.

6. Data Collection and Reporting

Data collection and reporting is critical to the delivery of effective language assistance services because demographics are constantly changing throughout Washington State. Some Washington Courts have reported providing interpreter services in upwards of 160 languages and some school districts in Washington report as many as 215 languages spoken by families at home. While most of the requested interpreter services are for the Spanish language, it is always important for courts to look at a jurisdiction's specific language data to understand how best to plan for and provide appropriate language access services to the community in the service area. This section should identify the method for determining the languages spoken in the service area and the most common languages determined through that method. It should also include data on the D/HH/DB population in the area. Data gathering in this regard is connected to the need to understand the individuals eligible to be served in a given area and the methods to determine that on an ongoing basis.

It is critical that language data not simply rely upon the number of requests for interpreter services as this data does not reflect the number or languages spoken by all who are eligible to be served by a program or service. Interpreter request data can be a beneficial part of a data analysis of services when done in conjunction with a larger data study of the language access service needs of specific LEP and D/HH/DB communities.

Language data and demographics must also be compiled from multiple sources to gain an accurate understanding of the specific languages spoken in a community. That is because the U.S. Census data only captures a small number of languages and groups many languages into categories which are not useful to assist a provider with identifying actual languages spoken by individuals in the service area. Courts, when reviewing language data, should consider multiple sources of comparative data, including sources such as:

- U.S. Census Language Use Data:
 - <https://www.census.gov/topics/population/language-use.html>
- US DOJ Civil Rights Division, Language Map App: <http://www.lep.gov/maps/>
- State and local reporting entities such as DSHS and schools.

Data reporting, or the gathering of data around language access services provided

within programs and services and even regionally, is an integral part of a robust LAP. Within a LAP, the court is planning and coordinating language access services across many services or programs within a court. Reporting, tracking, and compiling data on language access needs and service within these programs is a critical component of an LAP.

7. Monitoring of Services and Updating the Plan

Reviewing services provided, language data, and available services on a regular basis is an important part of maintaining language assistance services. After adoption of a LAP, a court will likely need to develop new forms or new programs, and the LAP must have a process for evaluating new programs for inclusion in the language access services available within the court. According to the *Guidance*:

“Recipients may want to consider assessing changes in: Current LEP populations in service area or population affected or encountered; Frequency of encounters with LEP language groups; Nature and importance of activities to LEP persons; Availability of resources, including technological advances and sources of additional resources, and the costs imposed; Whether existing assistance is meeting the needs of LEP persons; Whether staff knows and understands the LEP plan and how to implement it; Whether identified sources for assistance are still available and viable. In addition to these five elements, effective plans set clear goals, management accountability, and opportunities for community input and planning throughout the process.”⁷²

Just as each court implementing an LAP must review the plan and services provided on an annual basis, the AOC will routinely update this desk book. On an annual basis, the Interpreter Program will review this desk book to verify that all information is up to date. If a gap in services or failure to comply with state and federal law is noted, the Interpreter Program will provide a written description of the problem, list resources available, and work with the court to devise a schedule to address the problem.

8. Complaint Process

A critical component of an LAP is the inclusion of a process for individuals to file complaints when they encounter denials of language access services at the court. This section in a court’s LAP should identify the specific complaint process developed by the court and include the process for notifying the public of the complaint process. The notice of the complaint process must be translated into the most commonly spoken languages in the service area and must be posted prominently in the courthouse and on the court’s website. It must also be made accessible to D/HH/HB individuals through sight translation or other accommodations described above.

The complaint process developed by a court should provide an internal process for filing a complaint where a requested interpreter service was not provided in court proceedings and court programs and services, (including court ordered or offered services). The complaint process should also cover instances where an individual wants to report a language barrier (such as poor quality interpreting) identified when interacting with court staff and court-appointed interpreters in court proceedings, court-

⁷² Id. at 41465.

managed services and court ordered or offered programs. A complaint process should identify any particular forms or process for filing a complaint.⁷³

The complaint process should also inform individuals that the court complaint process is not the only option available to them. They may also contact the AOC's Court Interpreter Program or the Interpreter Commission to raise concerns about a court's language assistance services. There is no requirement that an individual first try to resolve the matter locally, although it is encouraged and is often the most direct route to having barriers identified and resolved. Nevertheless, some individual complaints may be more appropriately addressed through the Court Interpreter Program.

In addition to the local and state complaint process, individuals must also be informed of the option to file a Federal Civil Rights Complaint directly with the DOJ where they are alleging denial of language access services either under Title VI or the ADA.

It is critical that the complaint process itself is accessible to people who are LEP or who are D/HH/DB and is not overly burdensome. The specific process developed will depend on the size of the court and the local procedures, but ultimately the goal should be to ensure delivery of language access services; a complaint process is one mechanism that helps identify gaps and allows a court to remedy those gaps.

VI. AOC TASKS FOR IMPLEMENTATION OF A WASHINGTON MODEL LAP FOR LEP AND D/HH/DB

In order for courts to comply with the mandate to provide equal and meaningful access to all court participants by providing interpreters and translated materials, improvements on a small and large scale must be made. The following section outlines tasks for Washington Courts and related stakeholders.

Improving access to Washington Courts is the responsibility of the court leadership and stakeholder agencies that serve the courts. Our shared mission is to provide access to appropriate language assistance for LEP and D/HH/DB individuals in order to ensure full and equal access to Washington courts.

A. Improve Access to Qualified Bilingual Staff, Interpreters, and Translators

Great strides in interpreter certification and education have been made since the original court LAP was created in 2008. The Washington Court Interpreter Program now certifies and registers interpreters in many languages. The AOC provides both training and testing (to become a certified or registered interpreter) in many languages and should continue to expand the pool of interpreters in existing languages as well as add new languages to the group of certified and registered languages. Keeping language data and services current continues to be important as new immigrant and refugee populations bring new languages and the numbers and percentages of individuals speaking both new and existing languages may change. Washington ranks among the top ten states for refugee resettlement, which means communities and courts will continue to encounter individuals speaking languages previously not served or

⁷³ For technical assistance on all components of a plan, including a complaint process, see: http://www.lep.gov/resources/courts/022814_Planning_Tool/February_2014_Language_Access_Planning_and_Technical_Assistance_Tool_for_Courts_508_Version.pdf

encountered. Courts also need access to more certified interpreters in languages where certification already exists. The AOC Court Interpreter Program, together with the Interpreter Commission, will continue to work with the National Center for State Courts to provide additional testing and assessments for Washington court interpreters. The program will also continue to offer trainings to court interpreters.

1. Plan: Recruitment and Education of Interpreter Candidates

To become a *certified* interpreter, a candidate must pass two exams (a written exam and an oral interpreting performance exam). To become a *registered* interpreter, a candidate must pass the written exam and oral proficiency interview. Both exams are difficult, and pass rates are often low. Courts need access to interpreters who have proven they have superior interpreting skills. To improve the passage rate, the state's Interpreter Program needs to recruit individuals who possess better interpreter skills and have had access to prior interpreter education and training. Individuals who are bilingual are not qualified to be interpreters, much less court interpreters, without further training. The Interpreter Program will work to increase the exam passage rates for both certified and registered interpreters and will consider educational opportunities to meet this goal.

The Court Interpreter Program will partner with high school and community college programs to promote interpreter curricula and an understanding of future opportunities for a career as an interpreter. High school and community college level interpreter training programs currently exist, and the Interpreter Program will invest resources, develop material, and create incentives to encourage students who complete these programs to undertake additional training to become court interpreters. Court interpreting is a specialized skill which requires advanced training, but there is value in developing these partnerships between existing educational programs and the Court Interpreter Program. The Interpreter Program will continue to consider ways to recruit skilled candidates to take the interpreter exams through media sources, ethnic organization publications, and existing educational resources.

2. Plan: Education of Court Community

Part of the ongoing responsibility of the Washington State Interpreter Commission and a goal of the AOC Interpreter program is to provide regular educational opportunities for the court community who hire and use interpreters. Courts must fully understand their requirement to use certified and registered interpreters in every situation where it is possible (see RCW 2.43.030). The Interpreter Commission provides training on both the use of spoken language interpreters and ASL interpreters regularly to courts. Courts should provide training to all staff on these topics as well, and coordinate with the New Court Employee trainings provided through the Institute for New Court Employees.

3. Plan: Maintenance of Lists of Certified/Registered Interpreters

The Interpreter Program has two levels of credentialed court interpreters, certified and registered. The Interpreter Program will regularly update the online directory listing of both certified and registered interpreters in Washington State, and will use data gathered on the LEP population to determine the need for certification and registration in additional languages.

Changes in the qualification for sign language interpreters qualified to work in courtroom settings also created a new list of court qualified ASL interpreters and intermediary interpreters. The AOC Court Interpreter Program will partner with ODHHS, the office responsible for maintaining the list, to communicate this information out to local courts.

B. Collect Data on LEP and D/HH/DB Population and Services Provided

As identified above, data collection is a complex effort and will be coordinated at the state level so that local demographic data is shared in a uniform manner. The Court Interpreter Program will consider ways in which it can both gather data on LEP and D/HH/DB populations and services provided, as well as ways in which the program can assist courts by providing data on the LEP and D/HH/DB population in each region in Washington State. Annually, the Interpreter Program will send out information on the LEP and D/HH/DB population gathered from Census and Superintendent of Public Instruction data.

1. Plan: Improvement of Data Collection Systems

The Court Interpreter Program and Interpreter Commission need access to a uniform data collection system that gathers basic interpreter usage and bilingual staff data across each court level in the state. The Interpreter Program will explore possible software systems, funding, and methods of data collection that can be implemented in Washington Courts. The statewide process of collecting and assessing information on LEP access to courts was begun by AOC in 2006. To be more responsive and to ensure appropriate use of state interpreter funds, the state also began collecting data on court language assistance needs inside and outside the courtroom.

2. Plan: Court Survey

The Administrative Office of the Courts allocates state funds to administer the Court Interpreter Program. To be more responsive to the trial courts' needs, the program needs to regularly gather data on language needs and costs in Washington Courts. The Interpreter Program will send a periodic survey to the courts. Their responses are critical to the future policy and funding decisions made by the Interpreter Program, and in some cases will be needed for reimbursement of interpreter costs.

3. Plan: Survey of Written Language Access Plan

The Interpreter Program survey will require courts to (a) provide a copy of their written LAP; and (b) identify any needed changes in the plan due to fluctuation in language needs, developments in technology or other changes.

4. Plan: Survey of LEP Individuals Using the Courts: Data Collection System

The Court Interpreter Program will conduct a periodic survey to ask courts to identify and assess the language needs of all individuals using the court system, including specific interpreter services requested and provided by the court program. This should include reporting interpreter usage inside and outside the courtroom and should be reported by encounter type. The Court Interpreter Program will compile this data and

monitor for language trends.

5. Plan: Survey Courts on Use of Translated Signs and Brochures Informing LEP and D/HH/DB Individuals of Services

The Court Interpreter Program will survey courts to check that translated signs explaining procedures to access services for LEP individuals are posted in the courthouse. The survey will also ask courts to check that translated materials advising the LEP and D/HH/DB community of interpreter services are available.

6. Plan: Survey Courts on Use of Interpreters and Bilingual Staff by Language (in person and telephonic)

The Interpreter Program will use the periodic survey to gather data on use of interpreters by language in order to monitor fluctuations in language needs. This will include data on use of in-person interpreters, telephone interpreters, and use of bilingual staff broken down by language. It will also include data on use of interpreter services inside and outside the courtroom. The survey will also ask courts to report on resources that would be required to provide interpreters in all court-mandated programs.

7. Plan: Survey Courts on Numbers of Bilingual Staff Hired and on System for Employing Staff to Provide Access to LEP and D/HH/DB Individuals

The Interpreter Program will survey courts to gather information on numbers of bilingual staff hired (including actual hours used to provide services to LEP persons), and will check that instructions for working with bilingual staff are available to all.

8. Plan: Survey Courts on Use of Translated Forms and Brochures and Need for Translation of Additional Materials

The Interpreter Program will regularly update a list of translated forms and brochures on its website and will ask courts to report, in the periodic survey, which forms and brochures have been used, and which additional documents are the highest priority for translation. The survey will also remind courts to send any adaptations of translated forms to the Interpreter Program for review, posting and future use by other courts. It will also ask for information on how courts are providing access to D/HH/DB individuals who cannot understand written English.

C. Provide Training for Court Staff Including Judges, Administrators, and Court Employees

1. Plan: Review and Provide Training for Judges, Court Clerks and Other Courthouse Staff (including all current staff and new hires)
RE: Use of Interpreters and Bilingual Staff

The Interpreter Program will use the survey to collect data on the training needs of court staff and collect data on the number of staff trained and hours of any language access training provided.

2. Plan: Provide Model Curricula for Training Staff on How to Work with Interpreters and the Importance of Monitoring the Quality of Interpreting

The Interpreter Program will gather and share model curricula for training staff on working with interpreters to provide access to LEP and D/HH/DB individuals. These materials will be posted on the website, and other materials such as DVD's will be available to order.

3. Plan: Gather and Share Information about State Interpreter Telephonic and Video Interpreter Pools as well as National Language Lines

The Interpreter Program will gather and share information about any state interpreter telephonic pools that are developed and will also share information on rates and available languages of national language lines. Where feasible, the Interpreter Program will facilitate contracting statewide to reduce costs.

D. Assist and Advise Local Courts on Development of Local Language Access Plans

The Court Interpreter Program will assist local courts in the development of the local LAP and will provide technical assistance, when requested by a local court. The Court Interpreter Program will also review all local LAP's on a biannual basis and will offer advice and assistance with updates or revisions as needed.

E. Develop, Coordinate, and Share Resources Statewide

The Court Interpreter Program will develop language access materials and distribute them statewide. Additionally, the Court Interpreter Program will share resources developed at the local level in an effort to share best practices and known resources with courts statewide. One statewide coordination effort includes coordinating and sharing standardized translations, where there are components that are used by the local court and for which a verified translation has been completed either by the AOC or by another court. This coordination and sharing of resources will result in a significant savings.

F. Publish Updates to Model Language Access Plan and Appendices

The Court Interpreter Program will regularly update this Model Language Access Plan. More regular updates are necessary for the appendices attached to the Model LAP and the Court Interpreter Program will review the appendices annually for updates.

VII. STAKEHOLDERS

In developing this Model LAP, the following stakeholders were consulted. Local courts, in developing their LAP, are encouraged to reach out to all similar relevant regional and local stakeholders as part of this process.

A. Washington State Court Interpreter Commission

The Washington State Court Interpreter Commission is the policy making body that provides guidance and structure to the Court Interpreter Program. The mission of the Interpreter Commission is to ensure equal access to justice and to support the courts in providing access to court services and programs for all individuals regardless of their ability to communicate in the spoken English language. To ensure that a wide range of viewpoints are available to the Commission, its members come from a variety of backgrounds. The Commission membership includes judicial officers, spoken and sign language interpreters, court administrators, attorney, members of the public, ethnic organization representatives, and an AOC management representative.

B. Administrative Office of the Courts Interpreter Program

The program that administers certification and registration for court interpreters is housed at the AOC. The AOC Interpreter Program is tasked with managing the program that certifies or registers interpreters, monitors the quality of interpreter services, and directs future developments in the program. The Interpreter Program also oversees the Court Interpreter Reimbursement Program.

C. Board for Judicial Administration

The Board for Judicial Administration (BJA) is charged with providing effective leadership to the state courts and developing policy to enhance the administration of the court system in Washington State. Judges serving on the BJA pursue the best interests of the judiciary at large, representing the more than 400 elected and appointed judges presiding at four levels: the Supreme Court, the Court of Appeals, Superior Courts and Courts of Limited Jurisdiction (District and Municipal Courts).

The BJA meets monthly to address policy, administrative, and legislative issues to pursue improvements across Washington State trial courts. BJA has expressed a commitment to language access and is a partner in this work.

D. Washington State Inter-Agency Equity Work Group

In 2012, several state agency representatives began meeting quarterly as the “Inter-Agency LEP Work Group.” The group has grown to over 35 state agencies meeting quarterly to discuss language access issues in state government and serves as a resource sharing opportunity for participants. The AOC Interpreter Program has been involved with this Inter-Agency Work Group from its inception. In 2017, the group recognized it had broadened its focus to include D/HH/DB individuals and therefore changed its name to the “Inter-Agency Equity Work Group” and continue to focus on language access within state government.

E. Trial Courts

1. Judges

It is the responsibility of each trial court in the State of Washington to protect the rights, constitutional and otherwise, of LEP and D/HH/DB individuals who appear before them

by ensuring the availability of a qualified interpreter at each appearance. Accordingly, each trial court must develop appropriate procedures that will accomplish this result. An essential aspect of any such procedure is a mechanism whereby the court is notified sufficiently in advance of a hearing that an interpreter will be needed so that the court has adequate time to arrange for an interpreter. Alternatively, the court can ensure the presence of an interpreter by making a policy decision that an interpreter will always be present on a particular docket. Judges and their courtroom staff are critical partners in ensuring the delivery of interpreter services within legal proceedings and should have a role in creating and implementing the court's language access procedures. With such procedures, the court should reduce to an absolute minimum its reliance on non-certified interpreters. To obtain compliance with these procedures and to retain "corporate memory" in the event of turnover of staff, these procedures should be in writing. Included in **Appendix G** of this Plan is a model sample of trial court interpreter procedures from Washington courts.

2. Clerks and Court Administrators

The clerk's office is generally the first department in the courthouse to become aware that a matter has been scheduled for a hearing. When a Note for Motion Docket or similar document is filed in the clerk's office, this is the earliest opportunity for the courthouse to be made aware that a hearing has been scheduled. Since clerks' offices are readily accessible to the public, an LEP pro se party's first contact with the court system may be with the clerk's office. This is another reason why the clerk plays a crucial role in the process of determining that an interpreter is needed.

Recognizing that an interpreter is needed and conveying that information to the appropriate person are two essential roles that the clerk's office must play if interpreters are to be present in court. Other offices that have regular contact with the public – such as social service and law enforcement agencies – should be expected to interact with LEP and D/HH/DB individuals involved in the court system. Such offices should also develop methods of communicating with LEP and D/HH/DB persons and notifying the court of the need for interpreter services.

3. Court Staff and Court Interpreter Coordinators

Input on the development, implementation, and annual review of the court's LAP from all court staff is critical as court staff often have the day to day interactions with the general public and their insights can help form a more efficient and effective LAP. This is particularly true of bilingual court staff as they have important feedback on the effectiveness of the services provided and ways to plan to expand services in the future.

4. Courthouse ADA Coordinator

The interplay between the court's LAP and the court's ADA Plan has been referenced above. The ADA coordinator should have a role in assisting the court in evaluating and implementing a LAP that is fully inclusive of D/HH/DB; courts are encouraged to help facilitate this conversation.

F. Spoken Language Court Interpreters & Related Professional Organizations

Washington State certified and registered court spoken and signed language

interpreters are critical stakeholders in providing LEP and D/HH/DB individuals access to trial courts. They play a vital role in assisting people who require court intervention, but have language barriers that limit their participation.

Professional interpreter organizations assist in promoting the recognition and advancement of the interpretation/translation profession, the attainment of high standards/guidelines, and communication of the interests of professional interpreters and translators. These organizations provide information that will assist newcomers to the profession and enhance the abilities of established practitioners, such as providing workshops for interpreters and translators. They assist members in marketing their services. Additionally, they provide a forum in which interpreters and translators can get acquainted, network, discuss mutual needs, keep abreast of developments within the profession, and address business objectives. Finally, they inform the general public, courts, clients and persons in allied fields about interpretation and translation as well as raise awareness about the value of the profession. Professional organizations are a very beneficial source of information on standard practices within the field of practice of their members. Courts should reach out to court interpreters through the following professional organizations:

1. Northwest Translators & Interpreters Society (NOTIS)
www.NOTISnet.org
2. National Association of Judiciary Interpreters & Translators (NAJIT)
<http://www.najit.org/>

G. Sign Language Interpreters and Related Professional Organizations

Sign language interpreters can provide courts with valuable insight into the standard practices regarding sign language interpreters working in legal settings. Court certified ASL interpreters are certified nationally by the RID. Professional ASL interpreter organizations that should be contacted include the following:

1. Washington State Registry of Interpreters for the Deaf
www.wsrld.org
2. National Registry of Interpreters for the Deaf, Inc.
www.rid.org/

H. Translators and Related Professional Organizations

Translators can provide courts with a unique perspective on language assistance services and methods for working together to ensure accurate translations.

1. American Translators Association (ATA)
<http://atanet.org/>

I. Community Input – D/HH/DB & LEP

Courts should gather feedback and input from community organizations serving the D/HH/DB communities in their service area. These include the 6 regional service

centers for the deaf and also the Deaf-Blind Service Center (DBSC), and the Washington State Association of the Deaf. Other local deaf community organizations are additional community representation organizations courts can consult with for input.

1. Regional Service Centers for the Deaf
<https://www.dshs.wa.gov/altsa/odhh/list-regional-service-centers>
2. Washington State Deaf Community Associations
<https://www.dshs.wa.gov/altsa/odhh/community>
3. DSHS Office of Deaf and Hard of Hearing:
P.O. Box 45301
1115 Washington St SE
Olympia, WA 98504-5300
www.dshs.wa.gov/altsa/office-deaf-and-hard-hearing

Courts should also gather feedback and input from community organizations serving LEP communities in their service area, being sure to conduct outreach to immigrant populations within the community and service organizations in a broad range of service areas and language groups. Some of these organizations include Washington State Commissions and Coalitions.

The Commission on African American Affairs. The mission of this commission is to encourage the development and implementation of policies, programs and practices that are specifically intended to improve conditions affecting the cultural, social, economic, political, educational, health and general well-being of African American people at all levels throughout Washington State. The contact information for the Commission on African American Affairs is:

Commission on African American Affairs
General Administration Building
210 – 11th Avenue SW, Room 301A
Olympia, WA 98504-0926
(360) 725-5665
www.caa.wa.gov

The Commission on Asian Pacific American Affairs. The mission of this commission is to improve the well-being of Asian Pacific Americans by ensuring their access to participation in the fields of government, business, education and other areas. The contact information for the Commission on Asian Pacific American Affairs is:

Commission on Asian Pacific American Affairs
Building 210 – 11th Avenue, Room 301, MS 40925
Olympia, WA 98504-0925
(360) 725-5667
www.capaa.wa.gov

The Commission on Hispanic Affairs. The mission of this commission is to improve public policy development and the delivery of government services to the Hispanic community through the following means: (1) Identifying and defining issues concerning the rights and needs of Washington State's Hispanic community; (2) Advising the Governor and state agencies on the development of relevant policies, plans and programs that affect Hispanics; (3) Advising the legislature on issues of concern to the

state's Hispanic community; and (4) Establishing relationships with state agencies, local governments and members of the private sector. The contact information for the Commission on Hispanic Affairs is:

Commission on Hispanic Affairs
PO Box 40924
Olympia, WA 98504-0924
(360) 725-5661
www.cha.wa.gov

The Minority and Justice Commission. The purpose of this commission is to determine whether racial and ethnic bias exists in the courts of the State of Washington. To the extent that it exists, the Commission is charged with taking creative steps to overcome it. To the extent that such bias does not exist, the Commission is charged with taking creative steps to prevent it. The contact information for the Minority and Justice Commission is:

Washington State Minority and Justice Commission
Temple of Justice
PO Box 41174
Olympia, WA 98504-1174
(360) 357-2109
www.courts.wa.gov

The Washington State Coalition for Language Access (WASCLA). This organization consists of legal professionals, advocates, law enforcement personnel, interpreters/translators and court personnel who are dedicated to assisting state and local agencies within the State of Washington to understand and comply with their obligations under Title VI of the Civil Rights Act of 1964. The contact information for WASCLA is:

Washington State Coalition for Language Access
wascla.lep@gmail.com
www.wascla.org

VIII. RESOURCES AVAILABLE TO THE COURTS FOR PROVIDING LANGUAGE ASSISTANCE

Courts from around the state have adopted a number of measures to improve access for LEP and D/HH/DB individuals. The methods to improve court process and access for these individuals vary depending on the court's clientele, administration, needs and resources. These methods range from very expensive investments to reorganization of current resources having very little fiscal impact. This section will describe the methods some courts have utilized, provide an estimated fiscal impact, and identify courts that have already implemented these strategies.

A. Signage and Other Forms of Notice

Strategically placed signs and/or pamphlets at a courthouse or court facility are a functional and effective method to inform non-English speakers and D/HH/DB individuals where and how to request language assistance. Clear signage with simple directions offers LEP and D/HH/DB individuals comfort and assurance that they will get

the direction they need to accomplish their court activity. Signs should give direction to pamphlets or some other resource that clearly outlines the methods an LEP or D/HH/DB person can use to request language assistance.

Providing notice of the availability of interpreter services and how to access them is a critical component of any Language Access Plan. Printing signage in multiple languages can be a lasting investment. Courts should consider posting and providing laminated notices throughout the court facility. If multiple copies of the notice are available, an LEP or D/HH/DB individual could take a copy of the notice to the front desk to request assistance. Courts should consider using symbols to accompany the message for LEP and D/HH/DB individuals who struggle with reading in either English or the target language. See sample form at **Appendix I**.

In addition to courts' efforts in preparing local directional signage, AOC has produced general signage in the form of a poster in multiple languages most frequently used in WA courts stating, "*You have the right to a court-appointed interpreter in a court case. Please ask someone at the court information desk.*" A sample, editable poster notifying individuals of the availability of free interpreter services is available from the AOC.

B. Translation of Forms

Many courts have invested resources to translate court forms, brochures, and pamphlets. Because court forms are generally modified to reflect local rules and services, translated versions are often not easy to share between courts. If forms, brochures or pamphlets are translated, the reader is offered a thorough opportunity to read crucial legal information, get direction on how to resolve legal matters, or request court intervention. It allows a non-English speaking person the same opportunity to review information that an English-speaking person receives in court.

If forms are not available to an LEP or D/HH/DB individual, that person must rely on other means to understand the process, including using a friend or family member to translate the document; guessing or getting by without a full understanding of the action; using un-credentialed court staff to explain the process; or using a certified/registered interpreter to provide a sight translation of the document. Each of the options listed above, except using an interpreter with credentials or providing a sight translation, is grossly inadequate and puts the LEP or D/HH/DB individual at an unfair disadvantage. Having a qualified interpreter available to conduct sight translations at each point of contact is unrealistic and costly. For this reason, courts should consider prioritizing local forms and having them translated. The court should also consider video remote interpreting and other accommodations.

The Court Interpreter Program and the AOC are committed to improving access to the courts using translated court documents and forms. To that end, the Interpreter Program is working with stakeholder groups to prioritize pattern forms for translation by the AOC. These forms are accessible to all courts and thoroughly cover the mandatory information, pursuant to statute, but do not include local modifications.

Estimated cost: Varies by language, from \$0.18 per word (Spanish) to \$0.40 per word (more rare languages)

Existing Courts that have translated forms: San Juan District Court, Chelan District and Superior Court, Skagit County Superior Court (tri-fold pamphlet), King County Superior

C. “I Speak” Cards

Each court office that interacts with the public should be equipped with “I Speak” cards, which are available at no cost from the Department of Justice. They can be downloaded and copied at <http://www.lep.gov/ISpeakCards2004.pdf>. “I Speak” cards assist courthouse personnel in identifying what language the person seeking assistance speaks, so they can determine the best way to help the LEP person. “I Speak” cards include 38 variations of “I speak (sample) language” translated into the target languages. AOC has also prepared “I Speak” bound booklets in 54 languages to distribute to all trial courts statewide in the fall of 2008.

Trial courts should have numerous “I speak” documents and/or cards located around the court facility. If a person walking into the court facility needs assistance, he or she can retrieve a document or card and use it to identify and communicate the language in which assistance is needed. “I Speak” cards are used in conjunction with a robust language access service including availability of telephonic interpreter services, bilingual staff, and translated written materials.

Estimated cost: free to download, and printing cost varies (printing, spiral bound, laminated).

Existing resources: AOC’s website or contact AOC to obtain copies.

D. Telephonic and Video Remote Access

As a part of the appropriate mix of services available to meet the needs of LEP or D/HH/DB persons, telephonic and video remote interpreter services are available for use in limited instances. Supreme Court General Rule (GR) 11.3 limits the use of telephonic interpreter services inside the courtroom to only brief, non-evidentiary matters. GR 11.3 also requires that the qualification standards of RCW 2.43 be met. It is therefore recommended to use credentialed court interpreters for over the phone interpreted court events. Many times, courts use telephonic language assistance, such as the Language Line, for communication with the public, including interactions with individuals at information counters and clerk’s offices. Courts have access to the Washington State General Services Contract for telephonic and video interpreter services, which provides access to contracts established by the Executive Branch of Washington State government and provides for a reduction in the cost to an individual court. However, courts should be aware that the interpreters provided by these national companies often have little or no experience in Washington courts or court interpreting in general. They rarely meet the requirements for being certified or registered under most, if not all, state court interpreter program credentialing standards.

In addition, court offices that struggle with first point of contact and want to improve communication with LEP and D/HH/DB individuals may consider establishing a contract with an interpreter to be available to take telephonic or video remote appointments. For limited purposes, an interpreter would be able to assist in communication between an LEP individual and the court staff as long as there is a method whereby three-way

⁷⁴ General pattern forms translated by the AOC can be found at: <https://www.courts.wa.gov/forms/>

communication is available in the office where the first interaction occurs.

GR 11.3 Provides:

GR 11.3

TELEPHONIC INTERPRETATION

(a) Interpreters may be appointed to serve by telephone for brief, non-evidentiary proceedings, including initial appearances and arraignments, when interpreters are not readily available to the court. Telephone interpretation is not authorized for evidentiary hearings.

(b) RCW 2.43 and GR 11.2 must be followed regarding the interpreter's qualifications and other matters.

(c) Electronic equipment used during the hearing must ensure that the non-English speaking party hears all statements made by the participants. If electronic equipment is not available for simultaneous interpreting, the hearing shall be conducted to allow consecutive interpretation of each sentence.

(d) Attorney-client consultations must be interpreted confidentially.

(e) Written documents which would normally be orally translated by the interpreter must be read aloud to allow full oral translation of the material by the interpreter.

(f) An audio recording shall be made of all statements made on the record during their interpretation, and the same shall be preserved.

For D/HH/DB individuals, telephonic interpreter services in this conventional approach is not applicable; however, with the increasing use of video remote interpreting in courts, similar limitations can apply to courts wishing to use Video Remote Interpreting (VRI) services in the courtroom and courts should limit this use to brief, non-evidentiary hearings. An additional consideration for deaf individuals accessing court services is the use of TTY and video relay services (VRS) to allow deaf-individuals to call the court to conduct business as would the general public. Telecommunication relay services are those services that provide equal access to the telephone service for people who are D/HH/DB, and speech disabled. Relay service providers are available 24 hours per day, 365 days a year to connect D/HH/DB callers with hearing callers. No equipment is needed by the hearing caller, but staff training on how to work through a relay call is important since many deaf individuals report barriers to calling into organizations where the staff does not understand the role of the relay operator. Relay services are intended to make a telephone line accessible and are governed by the Federal Communications Commission (FCC).

Courts could consider implementing video remote interpreting (VRI) services for interactions where the hearing and hearing-impaired persons are in the same space, but the interpreter is in a remote location. These services require advanced planning, contracting, and specialized equipment to be installed at the court; however, VRI

services such as this would greatly increase the accessibility of clerk's offices, ex-parte calendars, and other critical court encounters for which advanced planning and scheduling of in-person interpreter services is inconsistent with the nature of the encounter between the court and the D/HH/DB person.

For more information on managing telephonically-interpreted events, see **Appendix M**.

Existing resources: Telephonic interpreter services can be secured through the Department of Enterprise Services master contracts, which are available to county and city governments. For information on how to be included in such contracts contact AOC.

E. Local Policy and Forms

AOC Court Interpreter Program staff are available for courts to consult with on the development of individual court language policies and forms, including consultation on processes that support policies on how to provide language access to LEP and D/HH/DB individuals, including but not limited to matters such as how an interpreter can be requested and the process by which an interpreter or language services can be used by LEP and D/HH/DB individuals.

F. Training for Support Staff

AOC Court Interpreter Program staff are available to assist with and provide training tailored to each court on model policies and procedures for providing interpreters to LEP and D/HH/DB court participants, which can provided to court leadership, county clerks, receptionists, judicial assistants, and bailiffs.

G. Education of Judicial Officers and Court Administration

The Interpreter Commission has a standing committee dedicated to educating judicial officers and court managers in Washington State on interpreter requirements, resources, and updates. Judges and court managers hold conferences twice a year and have access to electronic notices via email. Other stakeholder groups, such as the Court Education Committee, are also ideally positioned to assist in educating the court community. Communication between the Interpreter Program, the Commission, and the court community is vital to improving access to LEP and D/HH/DB court participants and sharing existing resources between courts.

H. Coordination of Court Calendars

AOC staff are available to assist with resources, including software resources, that enable courts to coordinate court interpreter procurement and scheduling of assignments.

I. Website Access to Court Services and Information

Courts increasingly use websites as a way to communicate information about services and procedures for interacting with the court. These websites should be translated into languages of local community LEP members using the four-factor test. The AOC will share information about best practices from around the state as part of its support to individual courts for their provision of language access resources their individual court

websites.

J. Tracking Language Needs

The AOC Interpreter Program will conduct a periodic survey of the courts' various language service needs. **(See Appendix J for a sample survey format that courts can use for their own local and court community language survey).** While a systematic data collection system is being developed, the survey and Language Access Plans (LAPs) should provide statewide information from courts on what level of language assistance services are being provided, where services are lacking, and what policies and resources are necessary to improve language access services to the courts for LEP and D/HH/DB individuals.

These reporting mechanisms offer courts an opportunity to participate in long-term, solution-focused public policy development targeted at improving deficits that currently face the courts, LEP and D/HH/DB individuals. Because court input is critical in institutionalizing important changes and improvements, wide participation in the survey and LAPs is essential to create solutions to problems that currently face Washington courts.

Estimated resources: Trial court staff will be responsible for completing the survey and reviewing / revising their LAP (in alternating years).

APPENDIX A

Language Access Plan (LAP) Instruction Guide

In this Appendix A section you will find a table that contains cross references between the policy section and the court template (Appendix B) along with resource and tips suggestions for adding court-specific information to your LAP. The purpose of this instruction guide is to provide a framework to your current practices and to offer ideas and suggestions to enhance your ability to deliver services to LEP individuals.

Your LAP should be tailored to the needs, demands, and services specific to your jurisdiction (or jurisdictions, if you are creating a LAP that encompasses more than one jurisdiction). Please feel free to customize the LAP as much as necessary for your local jurisdiction(s). Also, your LAP should take into account different courthouse buildings in your jurisdiction(s), if applicable. Feel free to complete a separate LAP for each building if that makes the most sense to you.

In developing a local LAP, R.C.W 2.43.090 (2) requires that each court consult with judges, court administrative staff, interpreters, and members of the community such as domestic violence organizations, pro bono programs, courthouse facilitators, legal services programs, and /or other community groups whose members speak a language other than English (including deaf and hearing impaired persons). Your LAP should document what method of consultation you employed – e.g., community forum; individual meetings with court staff and/or community representatives, etc. You may also want to indicate in your LAP what plan elements or other information (such as information on language needs in your community) were derived from such consultation.

If you have any questions or suggestions regarding the LAP plan template or this instruction, please contact Robert Lichtenberg, Language Access Services Program, at Robert.Lichtenberg@courts.wa.gov or at 360-350-5373.

Court Template Section	Deskbook Policy Section(s)	Resources and Tips for Development of LAP Provisions
Section I: Purpose	Section IV.D. Section V. Section V.A. and V.A.2 Section V.B.	LAP Resources: http://www.lep.gov/resources/resources.html#SC DOJ Publication: “Language Access Planning Technical Assistance Tool for Courts, February 2014” Disability Rights: http://www.justice.gov/crt/about/drs See <u>Appendix K</u> , 2010 DOJ Letter to State Courts
Section II: Court Policy Regarding Language Access Services	Section IV Section V.A.3	Personalize the LAP Plan with the name of your court. Throughout the template you’ll see [<i>name of your court</i>]. Do a ‘find and replace’ on “[<i>name of your court</i>]” and replace it with the name of your local court. NOTE: Local jurisdictions are welcome and encouraged to create and implement a single LAP for clusters of courts, or for all courts in a county or region. In such a case, feel free to use a different term for the cluster or region.
Section III: Data Collection and Needs Assessments	Section V.B.6	Identify the languages frequently used in our court community as well as in your larger geographical area using databases such as: <ul style="list-style-type: none"> • U.S. Census Bureau’s American Community Survey http://www.census.gov/acs/ • <u>Office of Superintendent of Public Instruction on non-English speaking students</u>

		<p>http://www.k12.wa.us/MigrantBilingual/BilingualProgram/AnnualReports.aspx</p> <ul style="list-style-type: none"> • U.S. Census Language Use Data: https://www.census.gov/topics/population/language-use.html • US DOJ Civil Rights Division, Language Map App: http://www.lep.gov/maps/ • State and local reporting entities such as DSHS and schools <p>See <u>Appendix J</u> for sample needs assessment survey form</p>
Subsection A: Identified Current Needs	Section IV.A.2 Section IV.D., referencing RCW 2.43.090(1)(e) and (2)	<p>Information regarding language needs in your court community can be gathered from various sources:</p> <ul style="list-style-type: none"> • Your court’s experience with LEP and D/HH/DB court users. This may be documented in case files, information systems and applications, scheduling software, and records of interpreter engagements and billing. • Queries from the Judicial Information System (JIS). (<u>Note:</u> The results of this query do not mean that an interpreter was actually used in each case. Its accuracy also depends on the language information having been entered for each person requiring an interpreter.) • Statistics maintained by court staff or justice partners regarding requests for and/or use of interpreters or other language access services. <p>See <u>Appendix J</u></p>
Subsection B: Identified Future Needs	Section IV.D., referencing RCW 2.43.090(1)(g) and (2)	<p>It is also important to use data and other information to identify emerging languages or upward trends in specific languages spoken in the court community in order to plan ahead for future needs. Courts should list as many languages as possible that best represent the emerging specific language access needs.</p> <p>See <u>Appendix J</u></p>
Section IV: Language Assistance Identification and Resources	Section IV.D., referencing RCW 2.43.090(1)(a) and (c)	
Subsection A: Designated Language Access office	Section V.B.1	
Subsection B: Identification of Language Access Needs and Notice of Availability	Section V.B.2	<p>The AOC can provide the “I Speak” booklet containing various languages to assist staff and others at the points of contact in determining the language spoken by LEP individuals. Please contact the AOC if your court needs this tool.</p>
1. Points of Access	Section V.B.1	<p>Identify points in which the court has encounters with LEP and D/HH/DB individuals and indicate coordination with local</p>

		government agencies (e.g., probation, law enforcement, child protection, prosecution, etc.) for early identification of interpreter needs. Where necessary, describe proactive communication plans with these local court-related agencies so as to create a consistent means of notifying the court as early as possible when social services, jails, county attorneys, etc., become aware that an interpreter will be needed for a court appearance.
2. Notice of the Availability of Language Access Services	Section V.B.1	AOC has developed posters in multiple languages to be used in courts across the state to notify non-English speakers of their right to interpreter services and the method(s) by which they can obtain an interpreter. Please contact the AOC if your court needs this tool.
Section V: Language Access Services		
Subsection A: Language Access Services Inside the Courtroom	Section IV.A.1 and B.1 General Rule 33 (ADA Requests) Section V.B.3 and V.B.4	<u>Appendix G</u> <u>Appendix I</u> <u>Appendix K</u>
Subsection A.1: Appointment of a Certified, Registered, or Qualified Interpreter for In-Court Proceedings	Section IV: A.1, and B.1 Section V: B.3 and V.B.4	<u>Appendix D</u> <u>Appendix E</u> <u>Appendix G</u> <u>Appendix H</u> <u>Appendix I</u> <u>Appendix L</u>
Subsection A.2: Practices in the Appointment and Use of Interpreters	Section IV: A.1, A.2, B.1, and B.2 Section IV.C., subsections 1-5	<u>Appendix H</u> <u>Appendix L</u>
Subsection A.3: Calendaring and Scheduling of Interpreters	Section IV: B.1 and B.2	
Subsection A.4: Remote Interpreting	Section VIII.D	<u>Appendix M</u>
Subsection B: Language Services Outside the Courtroom	Section IV: A.2, A.3, B.2 thru B.4	For court personnel staffing court-managed programs and services that may come into contact with LEP or D/HH/DB individuals outside of the courtroom, please list them here. This is an important factor in order to understand (1) which of your employees provide service to LEP and D/HH/DB individuals, and

		<p>(2) in what context they are serving those individuals. Some examples may include:</p> <ol style="list-style-type: none"> a. Public counter services b. Interviews for public defender eligibility c. Filing orders for protection or arranging fine/restitution payment plans d. Whether they use Interpreted telephone, TTY, or videophone communications e. Letters/requests sent by mail or email <p>Court staff by themselves certainly are not expected to provide linguistic services like interpreting or translating. However, they are still required to provide “meaningful access” to non-English speakers or persons who have hearing loss. The following are ideas and suggestions that you may wish to employ in your court. Suggested language for you to insert in your court’s LAP is in normal text, with related information in <i>italics</i>. However, please do not feel limited to using these examples, and include any other efforts or services provided by your court:</p> <ul style="list-style-type: none"> • “The _____ Superior/District/Municipal Court has bilingual employees in the following languages: When LEP customers seek our assistance outside the courtroom, we first try to meet their needs by using the language skills of our employees.” • “For face-to-face encounters, as well as telephone conversations, the _____ Superior/District/Municipal uses the Language Line or [insert name of telephone interpreting provider] for telephonic interpreting when interpreters are not immediately available.” <p>See <u>Appendix K</u></p>
<p>Subsection C: Translated Forms and Documents</p>	<p>Section IV: A.3 and B.3 Section V: B.4</p>	<p>Over the web it is quite easy to find machine translation services that may be helpful in <i>limited</i> circumstances. For example, if staff needs to communicate a simple sentence to an LEP individual (“Our office closes in ten minutes.” “Please take this paper to the second floor.” “Please wait and we will find an interpreter.”), using these online services may prove helpful:</p> <p>http://translate.google.com www.freetranslation.com http://translation2.paralink.com/ http://www.worldlingo.com/en/products_services/worldlingo_translator.html https://www.bing.com/translator</p> <p>See also Section VIII of this Desk book entitled “Resources Available to the Courts for Providing Language Assistance” for possible additional services and practices.</p> <p>A court should identify documents it uses that have been translated for statewide use by the Administrative Office of the Courts, found at http://www.courts.wa.gov/forms. If the specific jurisdiction(s) has also translated any other documents or forms, please list them in this section.</p>

		See <u>Appendix N</u>
Subsection D: Providing Emergency Information to LEP Court Customers	Section VIII.A	Emergency information is considered “vital” information otherwise provided to the public under the “signage” aspect. In order for your LEP Plan to be in compliance with the fundamental federal requirements, it must include information how your court provides emergency information to its LEP customers. For example, universally understood emergency signage and evacuation maps are displayed; emergency exits are clearly marked; court bilingual staff is trained in how to help LEP customers in case of an emergency).
Section VI: Training	Section IV.D, referencing RCW 2.43.090(f) Section V.B.5	In this section, list any training opportunities available to your judicial officers and court staff. Examples could include: <ul style="list-style-type: none"> a. Staff instruction plan about LAP policies and procedures, as described in this LAP Plan, on an annual basis. b. New staff attendance at the INCE, where they receive introductory instruction on language access. c. Front-line staff requirement to annually review “Breaking Down the Language Barrier,” a video training tool provided by the DOJ. d. Plan for provision of cultural competency training and language resources.
Section VII: Complaint Process for Non-Compliance	Section IV.D., referencing RCW 2.43.090(g) Section V.B.8	Courts may create their own in-house complaint handling process for two areas where language access and assistance is governed by federal and state requirements: the provision of interpreters and the conduct of interpreters. <p>Local courts are required to create a complaint process for the provision of language access services in general so that the court can address service gaps and monitor the quality of its language access services.</p> <p>The AOC Court Interpreter Program has complaint forms available to the public regarding individual court interpreters and their conduct. Local courts may wish to adopt the AOC’s format and review process. The AOC Interpreter Complaint Form is available at: http://www.courts.wa.gov/interpreters/complaint</p>
Subsection A: Local Court Complaint Process	Section V.B.8	Local courts are required to have a mechanism for addressing complaints for the lack of provision of language access services to LEP and D/HH/DB persons. This is related to its duty to maintain and update the plan as well.
Subsection B: Complaints Filed with Interpreter Commission	Section V.B.8	The Commission has a mechanism for addressing complaints filed against individual state courts and local courts are asked to include the language related to complaints filed with the Interpreter Commission in their individual court LAP document so that the public is aware of the option to file with the Commission,

		regardless of the resolution of a complaint filed with the local court under its LAP complaint process.
Section VIII: Public Notification and Evaluation of Language Access Plan	Section IV.D, referencing RCW 2.43.090(1)(g) and (2)	
Subsection A: LAP Approval & Notification	Section IV.D, referencing RCW 2.43.090(1)(g) and (2)	
Subsection B: Outreach and Communication of LAP	Section IV.D, referencing RCW 2.43.090(1)(c)	
Subsection C: Annual Evaluation of LAP	Section IV.D, referencing RCW 2.43.090(1)(g)	
Subsection D: Ideas for Future Improvements in Language Access Services	[Optional]	

APPENDIX B

Language Assistance Plan (LAP) Template for Superior / District / Municipal Courts

Language Access Plan of *[name of your court]*

I. PURPOSE

This LAP sets forth the ***[name of court]*** policy and procedures for the provision of timely language access services that ensure access for all limited English proficient (LEP), deaf, hard of hearing, and deaf-blind (D/HH/DB) individuals who come in contact with *[name of your court]* services and programs. Language access services include both interpretation and translation services for LEP and D/HH/DB individuals.

II. COURT POLICY REGARDING LANGUAGE ACCESS SERVICES

Under Washington state law (RCW 2.42 and 2.43), Title VI of the Civil Rights Act of 1964 (Title VI), the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act), the Americans with Disabilities Act (ADA), and the regulations implementing these federal laws, Washington courts are required to provide language access services to all LEP and D/HH/DB individuals in civil and criminal court proceedings and in all court-managed services and programs and to develop a written language access plan pursuant to RCW 2.43.090.

It is the policy of ***[name of court]*** to provide foreign language interpreter services at no cost to LEP parties, witnesses, victims, and others with an interest (e.g., parents, legal guardians, custodians) in all court proceedings and operations, both civil and criminal, other than when it is the responsibility of other government bodies pursuant to state law. It is also the policy of this court to provide sign language interpreting services at no cost to persons who are D/HH/DB as required under applicable state and federal statutes and regulations.

[Name of court] will provide accessible information to LEP and D/HH/DB persons on how to request these language assistance services and vital documents as part of its notice to the public about its language access services.

Although D/HH/DB individuals are covered under the ADA and RCW 2.42 rather than Title VI and the Safe Streets Act, this plan covers language access services for both D/HH/DB and LEP individuals.

III. DATA COLLECTION AND NEEDS ASSESSMENT

The ***[designated language access office or person]*** for ***[name of court]*** will, on an annual basis, compile demographic data regarding the language needs of its community. The court will initially review data from sources such as the following *[check all that apply and delete those that are not relevant to your court jurisdiction]*:

- Most recent and relevant U.S. Census and American Community Survey (ACS)
- Local school district (list names of district(s))
- County health department
- Public Defender's Office/Office of Assigned Counsel
- Prosecuting Attorney's Office
- County or City Attorney's Office
- Local legal aid service providers and community-based organizations which focus their service provision on immigrant and refugee populations in order to

identify possible immigration and new language trends [*list relevant community agencies, if any*]

This data will be analyzed annually to determine whether the court's allocation of language access resources is appropriate.

The [*name of your court*] will make every effort to track requests for language access services by [*check all that apply or delete those that are not relevant to your court*]:

- Language preference (both spoken, written, and signed)
- Case type (e.g. family law, criminal, housing, etc.)
- Proceeding (e.g. trial, arraignment, initial appearance, etc.)
- Location of service request (e.g. court hearing, ADR, clerk's office, etc.)
- Whether the language access service requested was granted or denied
- Reason for denial
- Other [*describe*]

In addition to mechanisms discussed under the identification of language needs section below, the [***name of court***] will track this internal data in a case management system where available, and/or case files if case management is not automated. On a yearly basis, the court will analyze the data collected to identify whether services requested are in fact provided, assist in the allocation of language access resources, and identify gaps in the provision of services to address future needs.

The [***name of your court***] will send the final data compilation and analyses in the form of a biennial report to the Washington State Court Interpreter Commission to assist the Commission in monitoring of the court's Language Access Plan, identification of interpreter training and certification strategies, and other tools to assist the AOC and local courts in the provision of language access services.

A. Identified Current Needs

The most current language need identification efforts undertaken by [***name of court***] shows the following [***insert top five languages below***] non-English languages, whether spoken or signed, that are most frequently used in our **geographic area**:

- [*language xx*]

The most current language need identification efforts undertaken by [***name of court***] shows the following [***insert top five languages below***] foreign or sign languages that are most frequently used in our **court community**:

- [*language xx*]

B. Identified Future Needs (if any)

[Name of court] has identified the following emerging and/or additional languages among court users in the area for which resources will be needed in the future:

- *[language xx or resource needed]*
- *[language xx or resource needed]*
- *[language xx or resource needed]*

IV. LANGUAGE ASSISTANCE IDENTIFICATION AND RESOURCES

A. Designated Language Access Office *[or other name given by your court]*

The *[name of court]* has designated *[include name of designated local Language Access Coordinator or Interpreter Coordinator]* as the person responsible for coordinating language access services and to whom requests for interpreters and other language access services may be addressed. This designated person is available to:

- Develop lists of interpreters and secure interpreter services
- Receive and track language assistance requests;
- Address gaps in interpreter services by conducting outreach as needed;
- Provide information to assist LEP and D/HH/DB individuals to secure language access services;
- Assist or provide referrals to attorneys, justice partners, and other relevant persons to secure language access services for their clients and constituents;
- Assist court staff with securing language access services; and
- Answer questions from LEP and D/HH/DB individuals, and the public at large, regarding the court's available language access services, including the court's language access resources such as translated materials, interpreter roster, language identification cards, and other resources identified in this Plan.

LEP and D/HH/DB individuals, attorneys, justice partners, government agencies, and any other entities in need of language access services for court programs or activities or to acquire such services or information for themselves or their clients, may contact:

[Name of person/office designated]

[Address]

[Phone number]

[Fax/Email]

B. Identification of Language Access Needs and Notice of Availability

LEP and D/HH/DB, individuals may come in contact with court personnel via the phone, TTY / TDD, in-person, or through other means. In addition, there are various points of contact within *[name court here]* where LEP individuals or persons who are D/HH/DB will be in contact with court staff. Sometimes people who need language access services, including translated documents, will not request these services because they do not realize that such services are available at no charge, or because they do not recognize the level of English-language proficiency or communication ability needed to effectively participate in

the court program, court proceeding, or court services. The first step in providing language access services is to enable LEP individuals or persons who are D/HH/DB to properly identify their language needs.

As a first step towards ensuring that LEP and D/HH/DB individuals are able to properly identify their language needs and to request language access and assistance services, **[name of court]** has a legal obligation to provide accessible notice to the public of an individual's right to spoken and sign language interpreter services and to be provided vital documents in translated form whenever necessary to access court proceedings and court-managed programs.

1. Identifying Language Needs at Points of Access

[Name of court] will identify language access needs at all points of contact with the court, such as the following [*Check all that apply or delete those that are not relevant to your court*]:`

- Telephone calls to court staff.
 - *[insert court phone numbers]*
- Security screening at court house entrances at the following courthouses:
 - *[insert court locations where screening exists]*
- Clerks' Offices at the following locations:
 - *[insert court locations]*
- Jury Offices at:
 - *[insert court locations]*
- Court Records Office at:
 - *[insert court locations]*
- Cashier Offices at:
 - *[insert court locations]*
- Small Claims or Alternative Dispute Resolution Services at:
 - *[insert court locations]*
- Courtroom(s) at the following court houses:
 - *[insert court locations where courtrooms are situated]*
- Court Facilitator or pro se services provided by the court at:
 - *[insert court locations]*
- Court-managed programs and services at:
 - *[insert locations and services provided]*
- Other [*Describe other points of access and the locations*]

To ensure the earliest possible identification of the need for language access services, the **[name of court]** has established internal protocols with the various justice partners which routinely interact with this court in order for these partners to communicate to the appropriate court staff the needs of LEP or D/HH/DB participants who will be coming into contact with the court. While justice partners themselves may be under a separate legal obligation to provide language access services to their clients, the court will be notified of any services that fall under the responsibility of the court as early as possible so services may be provided in a timely and efficient manner. Examples of justice partners to be notified include [*check all that apply or delete those that are not relevant to your court*]:

- Jail staff
- Domestic violence victim's advocate
- Attorney/public defender

- Court facilitator
- Law enforcement
- Other [*add any other justice partners*]

2. Notice of the Availability of Language Access Services

In order to facilitate the ability of LEP and D/HH/DB individuals to request their need for language access services, the **[name of court]** shall provide notice of the availability of language access services translated into Washington State’s most frequently used languages that states:

“You have the right to language access services at no cost to you. To request these services, please contact [insert designated language access office or appropriate contact here]”.

The **[name of court]** displays this notice on its website and at the following locations:

- [location xx]
- [location xx]
- [location xx]

Additionally, **[name of court]** has the following resources available at its points of contact, including those listed above when appropriate, to help LEP and D/HH/DB and court staff communicate with each other [*Check all that apply or delete those that are not relevant to your court*]:

- Language identification cards at all points of contact
- Multi-lingual notices at all appropriate points of contact notifying members of the public of their right to request an interpreter or other language assistance at any point during their contact with the court.
- Other [*Add any additional mechanism for self-identification for LEP and D/HH/DB persons*]: _____

When it appears that an individual has difficulty communicating due to a language barrier, **[name of court]** staff must inform the LEP or D/HH/DB person of his or her right to have language access services provided by the courts at no cost to them, even if the LEP or D/HH/DB person has not made a request for the language access services.

V. LANGUAGE ACCESS SERVICES

Once the **[name of court]** staff has determined interpreter services are required for an LEP or D/HH/DB individual, court staff have access to the following procedures for securing an interpreter.

A. Language Access Services Inside the Court Room

1. Appointment of a Certified, Registered, or Qualified Interpreter for In Court Proceedings

The person responsible for appointing or securing the assistance of an interpreter at the [name your court] will comply with the following order of preference in appointing an interpreter in RCW 2.43.030:

RCW 2.43.030(1) (b)

An in-person Certified or Registered interpreter who has been credentialed by the Administrative Office of the Courts shall be appointed, whenever possible, unless good cause is found and noted by the appointing authority. "Good cause" includes, but is not limited to, a determination that:

- (i) Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of an in-person credentialed interpreter are not reasonably available to the appointing authority; or
- (ii) The current list of credentialed interpreters maintained by the Administrative Office of the Courts does not include an interpreter in the language spoken by the LEP.

RCW 2.43.030(2)

If good cause is found for using an interpreter who is not credentialed by the Administrative Office of the Court, the appointing authority shall make a preliminary determination that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:

- (a) Is capable of communicating effectively with the court or agency and the person for who the interpreter would interpret; and
- (b) Has read, understands, and will abide by the code of ethics for language interpreters established by court rules.

In the event no in-person interpreter is available locally, the court or designated authority will weigh the need for moving forward with the proceeding against any possible negative consequences to the LEP or D/HH/DB person's ability to effectively participate in the proceedings through the use of a remote interpreter, as may be allowed by Washington court rule or law. When evidentiary matters are before the court, the court shall reschedule the hearing until an in-person interpreter is available, whether located in-state or out-of-state, and be made present at the hearing.

[Name of your court] will NOT appoint as interpreters anyone with a potential conflict of interest in the case, including the following: minors; friends and family of the LEP or D/HH/DB person; advocates and attorneys; justice partner bilingual staff; or anyone deemed unqualified after voir dire by the court.

2. Practices in the Appointment and Use of Interpreters

In appointing interpreters, staff at [name of court], will ensure that the interpreter and the LEP or D/HH/DB participant can effectively communicate. It is also the practice of [name of court] to:

- ❑ Make a determination of the appropriate number of interpreters that may be required for the proceeding. When the proper administration of justice so requires the court will appoint multiple or separate interpreters.
- ❑ For long hearing sessions or trials, appoint a team of two interpreters or if no second interpreter is available, allow the interpreter to have frequent breaks to avoid interpreting fatigue, ensure accuracy, and avoid subsequent errors.
- ❑ Only allow an LEP or D/HH/DB person to waive his or her right to the assistance of an interpreter if the waiver is knowing, voluntary, and on the record. The waiver of an interpreter may be rejected by the court or later revoked by the person.
- ❑ Require interpreters to provide sight translations for documents related to the court proceedings.
- ❑ Prohibit interpreters from assisting LEP or D/HH/DB with entering information on court forms without the involvement of court staff in the completion of such forms.
- ❑ Provide sign language interpreters for jurors who are D/HH/DB when such persons are called and selected for jury service

3. Calendaring and Scheduling of Interpreters for In-court and Out-of-court Contacts

[Name of court] will provide interpreter services in a timely manner. In order to provide high quality language access services in an efficient manner, **[Name of court]** employs the following practices: *[check all that apply or delete those that are not relevant to your court]*

- ❑ Batching of matters for which an interpreter for a specific language is needed so long as this does not cause unnecessary delays in access and loss of remedies available to litigants, such as:
 - *[list any matters for which batching would be appropriate]*
- ❑ Coordinating calendars so an interpreter may be available for several matters in the same court location on the same day.
- ❑ Establishing systems so that an interpreter coordinator can easily dispatch an interpreter from one court location to another, or one courtroom to another, efficiently, such as:
 - *[list any systems]*
- ❑ Coordinating the use of interpreters so that when an interpreter is not busy in a courtroom proceeding he or she may be available in person or telephonically to assist in other court-managed services, such as clerk's offices, pro se clinics, etc.
- ❑ Creating a pool of interpreters who may be available by telephone or video to assist in non-evidentiary proceedings or other court programs.
- ❑ Other: *[Describe additional practices]*

4. Remote Interpreting

For short non-evidentiary hearings the **[name of court]** uses the following remote interpreting technologies: *[check all that apply or delete those that are not relevant to your court]*

- Video-remote interpreting (VRI)
- Telephonic interpreting provided by credentialed interpreters
- Telephonic interpreting agencies
- Other: *[Describe remote interpreting technologies]*

The policy or practice of the court with regard to the use of remote interpreting services is as follows: *[insert/attach your court's policy here, or if your court does not have policy, use the following points as a guide as it relates to remote interpreting]*

- Video remote and telephonic interpreting use will be consistent with GR 11.3 and will be used with caution. Generally, in-person interpreters are preferred.
- Telephonic interpreting will be a last resort for courtroom proceedings, and reserved for brief non-evidentiary proceedings such as continuances, given that non-verbal cues – not visible when on the telephone – are critical for communication. Telephonic interpreting can be particularly problematic in some circumstances such as for individuals who are deaf or hard of hearing, the elderly, those struggling with mental illness, quiet or nonverbally communicative individuals, and others.
- Video remote interpreting (VRI) will be used appropriately and will meet the requirements for providing effective communication, including,
 - o Real-time, full-motion video and audio;
 - o A clear, large image;
 - o A clear transmission of voices;
 - o Adequate training of staff in utilizing the equipment; and
 - o Use of Certified interpreters with legal training

in order to be an efficient and effective mechanism for providing language access services when an in-person interpreter is not available, or when only a non-credentialed interpreter is available in person (but a credentialed one is available via video).

The court requires training for staff and appointing authorities on VRI and telephonic interpreting, how to use the technologies, how to best utilize the remote interpreter, and what are appropriate events for such types of remote interpreting service. VRI shall not be the only option available to the court and should be used when in-person interpretation services are not available.

B. Language Services Outside the Courtroom

The **[name of court]** is responsible for taking reasonable steps to ensure that LEP, deaf and hearing impaired individuals have meaningful access to services outside the courtroom. It is the practice of the court to provide interpreters for court-managed

services, programs and operations consistent with state and federal language access mandates. In compliance with such mandates, the court shall provide language access services at: [*check all that apply or delete those that are not relevant to your court*]

- Alternative dispute resolution programs
- Anger management class
- CASA Programs
- Cashiers
- Court-ordered visitation
- Court facilitator services
- Criminal diversion programs
- Family Team Decision Making
- Guardians Ad Litem
- Electronic home monitoring
- Information counters
- Intake or filing offices
- Juvenile detention
- Juvenile diversion programs
- Mandatory mediation
- Prostitute patron (“John”) class
- Parenting classes
- Pro se clinics
- Probation offices
- Records rooms
- Other [*Describe additional locations*]

The court, in compliance with federal and state civil rights laws and regulations, shall provide the most appropriate language access service for these programs and services, including qualified interpreters, bilingual staff, and translated materials and information. When the most appropriate language access service is the appointment of a qualified interpreter, the court shall follow the guidelines described for the appointment of interpreters.

As noted in the policy interpretation section earlier, RCW 2.42 requires that courts provide interpreters for persons who are D/HH/DB when they are required to attend court ordered-programs or services. In addition to the provision of qualified interpreters in all proceedings where required, court’s bilingual staff may assist with language needs outside of court proceedings. Bilingual staff shall be trained to understand their role, how it differs from the role of an interpreter, and that staff are only used for basic communications.

C. Translated Forms and Documents

The [*name of court*] understands the importance of translating forms, documents, and electronic materials into non-English languages, so that LEP individuals have greater access to the courts’ services. Judicial and court staff shall not use web-based applications or software to process or provide translations for LEP individuals.

State forms which have been translated are available at www.courts.wa.gov/forms. Additional informational resources translated into Spanish include:

- [A Guide to Washington State Courts / Guía de los Tribunales del Estado de Washington](#)
- [Self-Represented Persons in District Court / Personas que se representan a sí mismas en el Tribunal de Distrito](#)
- [Self-Represented Persons in Municipal Court / Personas que se auto representan en los Tribunales Municipales](#)
- [Self-Represented Persons in Superior Court Civil Proceedings / Personas que se auto representan en procedimientos civiles en el Tribunal Superior](#)
- [An Introduction to Small Claims Court / Una Introducción Al Juzgado De Demandas De Cuantía Menor](#)

[If your court has translated forms, use this section below to identify the forms]:

The *[name of your court]* currently has the following forms translated into commonly used languages *[list any forms/pamphlets your court has translated or include a link to the webpage containing those forms]*:

- [X, Y and Z Criminal Court Forms have been translated into . . .]
- [X, Y and Z Domestic Abuse forms have been translated into. . .]
- [XX]
- [YY]

The court shall make available such forms at appropriate locations in its court system and on the court's website. Information posted on the court's website for such forms shall be made accessible in the language the form is translated into.

[If your court has not translated any local forms, use this section]

[Name of court] has not translated any local forms and relies solely on translated general pattern forms provided by the AOC. When translated forms are not available, this court may: *[check all that apply or delete those that are not relevant to your court]*

- Provide sight translation of the form using bilingual staff
- Provide information regarding the content of the form using bilingual staff.
- Have an in-person interpreter sight translate the form
- Refer LEP party to a community resource
- Use telephonic interpreting
- Other *[describe other practices]*

D. Providing Emergency Information to LEP Court Customers

The ***[name of court]*** is responsible for taking reasonable steps to ensure that LEP and D/HH/DB individuals have meaningful access to emergency information should an emergency situation arise. The court provides such information in the following ways:

- There are universally understood emergency signs located in the strategic places throughout the courthouse building;
- Emergency exits are clearly marked *[possibly also in the most common non-English language(s) used in the area]*;
- Evacuation map(s) are located in visible public area points with an indication using the most common non-English language (in addition to English) spoken in the area to designate the evacuation map(s).
- Bilingual staff is informed and trained to provide emergency information.

VI. TRAINING

The **[name of court]** is committed to providing training for all judicial and court staff members who come in contact with LEP and D/HH/DB individuals in order to ensure the successful delivery of language access services. The court will provide staff training on all requirements in this Language Access Plan. Additional training opportunities will include *[check all that apply or delete those that are not relevant to your court]*:

- Proper appointment and scheduling of interpreters for all court proceedings and court-managed programs and services
- How to voir dire a non-credentialed court interpreter
- Role of an interpreter, modes of interpreting, and interpreter ethics and professional standards
- Courtroom management when interpreters are used
- Use of remote technologies for interpreting
- Cultural competence
- Other *[describe other trainings]*

Training efforts will include an initial training for new staff on the requirements of the current Language Access Plan and an annual training for existing court personnel that addresses any revisions made to the Plan.

Resources and information regarding language access services, policies and procedures and tools for providing language assistance (such as bench cards, language identification guides, brochures, etc.) are available to all court staff and decision makers at: *[check all that apply or delete those that are not relevant to your court]*

- The court's intranet
- The court's Language Access Coordinator/Interpreter Coordinator *[or your name for designated office/person.]*
- Other *[list other resources]*

VII. COMPLAINT PROCESS FOR NON-COMPLIANCE

1. Complaints Against Local Court

This specific complaint process is designed to bring to the attention of the local court, and if necessary, the Interpreter Commission, allegations filed by LEP or D/HH/DB parties that the local court is out of compliance with the its own Language Access Plan, any applicable federal statutes or regulations, state statutory provisions, such as RCW 2.42 or 2.43 and/or any applicable state or local court rules. This is an informal process whereby the Interpreter Commission may be involved in providing consultation and guidance to LEP parties and local courts in resolving and removing barriers to language access services and resources.

LEP and D/HH/DB individuals are encouraged to first file a complaint with the local court using local court customer complaint filing procedures. The local court complaint rules are as follows:

A. Local Court Complaint Process

(Courts insert their local court complaint process here)

B. Complaint Filed with the Court Interpreter Commission (Optional)

1. Except in extraordinary circumstances, the complaint must be filed with the Interpreter Commission by an aggrieved party within 60 days from the date of the events on which the complaint is based.

Within 3 business days of the receipt of the complaint against a local court, Commission staff will inform complainant, using the contact information provided by complainant, of their option to file their complaint with the Department of Justice and of the need to file such complaint within 180 days from the date of the alleged discrimination.

2. Complaints filed with the Court or the AOC must be in writing and must be signed. The complaint must include the following information:

- a. A clear and brief description of the complaint and any evidence upon which the allegation is based, with relevant supporting documentation. The description and supporting evidence should include relevant facts that support the complaint that the court did not provide language access services;
- b. If possible, the complaint should identify the section(s) of the court's plan, statutes or regulations alleged to have been violated and the time frame in which the lack of compliance is alleged to have occurred;
- c. Disclosure of any other channels the complainant is pursuing, including legal action (optional); and
- d. A statement authorizing the Interpreter Commission to send a copy of the complaint to the court that is the subject of the complaint.

Complaints filed with the Interpreter Commission should be sent to:

Washington State Interpreter Commission
c/o Interpreter Commission Staff
Administrative Office of the Courts
PO Box 41170
Olympia, WA 98504-1170.

Or by contacting Robert W. Lichtenberg at 360-350-5373 by telephone or via email to Robert.Lichtenberg@courts.wa.gov

3. Interpreter Commission Complaint Review

- a. The Interpreter Commission shall determine whether the complaint alleges facts that raise issues relating to the court's compliance with its LAP, federal civil rights laws, RCW 2.42 and/or 2.43 or court rules.

This determination shall be made within 10 business days of receiving the complaint. The Interpreter Commission may request additional information from the complainant if appropriate. If the Interpreter Commission concludes that the complaint does not raise issues relating compliance with the LAP, Title VI of the Civil Rights Act, RCW 2.42 and/or 2.43, the matter will be closed and the complainant will be notified of the decision.

- b. If the Interpreter Commission determines that the complaint may raise possible compliance issues, the complaint shall be sent to the court and a response requested. The Interpreter Commission ordinarily will request the presiding judge of the court or their designee to respond within 30 days.
- c. If the response from the court establishes that the court is not out of compliance with respect to the matters raised in the complaint, the Interpreter Commission will close the matter.

If the court's response does not clearly establish that it is operating in compliance with the matters raised by the complaint, the Interpreter Commission may appoint a fact-finder to investigate the issues raised by the complaint and to report on the court's response, if necessary. The complaint, the court's response, and fact-finder's report, if any, shall be referred to the WA Supreme Court Interpreter Commission for any further action deemed necessary by the Commission.

- d. The person making the complaint will be notified promptly regarding the conclusion of the Commission's review.

VIII. PUBLIC NOTIFICATION AND EVALUATION OF LAP

A. LAP Approval & Notification

[Name of court] LAP has been approved by the [*Presiding Judge, Court Administrator, Court Manager, and/or County Clerk*], and a copy has been forwarded to Washington State's Administrative Office of the Courts Interpreter Program Coordinator. Any revisions to the Plan are to be submitted to the [*Presiding Judge, Court Administrator, Court Manager, and/or County Clerk*] for approval, and then forwarded to the Interpreter Program Coordinator. Copies of **[name of court]** LAP shall be provided upon request. In addition, the court shall post its LAP on its own website at: **[Insert court's URL]**

B. Outreach and Communication of Plan

The **[name of court]** shall inform the public of the existence of the LAP and to this end, the court will: [*check all that apply or delete those that are not relevant to your court*]:

- Collaborate with local bar associations, justice partners and other relevant organizations to ensure distribution of information.
- Translate vital outreach materials into the following languages:

- *[Insert languages with high diffusion in the court's area to which vital documents and materials will be translated].*
- Use ethnic media outlets (print, audio, TV, and digital media) to communicate regarding their language access policies and administrative policies. The court has identified the following ethnic media outlets with whom it will collaborate:
 - *[Insert local, regional and or statewide media outlets].*
- Establish mechanisms for obtaining feedback from the public, attorneys and justice partners regarding the implementation and effectiveness of the administrative protocol and take this feedback into account at the yearly evaluation of the protocol.
- Other:

C. Annual Evaluation of the LAP

[Name of court] will conduct an annual needs assessment to determine whether changes to the LAP are needed. To this end, the court will continue to communicate on an ongoing basis with stakeholders, including LEP and D/HH/DB persons, attorneys, and the public in the following manner(s):

- *[Fill in the method for notifying stakeholders of protocol for needs assessment].*

This assessment will be done by reviewing various areas in which the court provides language access services, taking into consideration, at a minimum, the number of interpreters requested by language in the courts and the identification of emerging changes in the languages spoken or signed within the court's local population as identified by any informational means or by other methods. Elements of the assessment evaluation shall include *[check all that apply or delete those that are not relevant to your court]:*

- Number of LEP or D/HH/DB persons requesting court interpreters;
- Assessment of current language needs to determine if additional services or translated materials should be provided;
- Assessing whether staff members adequately understand LAP policies and procedures and how to carry them out; and
- Gathering feedback from LEP, deaf and hearing impaired communities around the state.
- Identification of challenges or trends your court is experiencing with providing language access services.
- Other *[describe other assessments]*

Any revisions made to the Plan will be communicated to all court personnel, and an updated version of the plan will be posted on the court's web site. In addition, the **[Name of court]** will submit to the AOC a copy of any updated information contained in this LAP within 60 days of its approval by **[Name of court or designated authority here]**.

D. Ideas for Future Improvements in Language Access [Optional]

[Name of court] will review the results of its annual needs assessment and conduct the following activities *[Check all that apply]:*

- Identify any challenges or trends your court is experiencing with providing language access services, sourcing of interpreters, document translation tasks, and website information that is accessible to LEP and D/HH/DB individuals.
- Engage in collaborative efforts with other courts to improve and coordinate interpreter scheduling where interpreter resources are shared.
- Identify and implement changes or improvements identified by your court to improve language access services that are within the scope of this LAP
- Other:

LAP Contact Person

State Contact:

Robert Lichtenberg
AOC Interpreter Program
1206 Quince Street SE
PO Box 41170
Olympia, WA 98504-1170
Robert.Lichtenberg@courts.wa.gov
(360) 350-5373

Local Contact:

[Insert Local Contact Information]

The effective date of this LAP plan is _____.

APPENDIX C

Questions to Ask/Consider When Qualifying an Interpreter

QUESTIONS TO ASK/CONSIDER WHEN QUALIFYING AN INTERPRETER

RCW 2.43.030 (2) states that:

If good cause is found for using an interpreter who is not certified or if a qualified interpreter is appointed, the appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the non-English-speaking person, that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:

- a. Is capable of communicating effectively with the court or agency and the person for whom the interpreter would interpret; and*
- b. Has read, understands, and will abide by the code of ethics for language interpreters established by court rules.*

Following is a list of questions recommended for judicial officers to use when qualifying a non-certified interpreter (including registered interpreters) for a hearing:

1. Are you certified by the state of Washington as a court interpreter? Any other state? Any other credentials or certification?
2. What is your native language?
3. How did you learn English and the target language?
4. Can you read in both languages?
5. Did you formally study either language in school? What was your primary language in school? Where and how long did you attend school?
6. Have you had an opportunity to speak with the litigant(s)? Do you need a few minutes? Were there any particular communication problems?
7. Are you familiar with the dialectical or idiomatic peculiarities of the witness/parties?
8. Have you ever interpreted in court before? Where? How often? For what types of hearings or cases?
9. Have you received any special training in court proceedings?
10. Describe simultaneous interpreting and your experience with it.
11. Describe consecutive interpreting and your experience with it.
12. Do you ever summarize statements while interpreting? Do you understand the law requires you to interpret everything said by all parties?
13. Have you read the Code of Conduct for Court Interpreters? Describe briefly the topics covered (see GR 11.1).

14. Are you a potential witness in this case?
15. Do you now or have you ever met any of the parties/witnesses? In what circumstances?
16. Do you have any other potential conflicts of interest?
17. Have you ever worked for any of the parties/witnesses? In what capacity?
18. Do you believe you can communicate with the non-English-speaking person/party; i.e., have you talked with the person already or do you need a few minutes to talk now?
19. Can you readily communicate with the non-English-speaking person?

APPENDIX D

Code of Conduct for Court Interpreters – GR 11.2

GR 11.2

CODE OF CONDUCT FOR COURT INTERPRETERS

Introduction: The Washington State Supreme Court adopted the Code of Conduct for Court Interpreters in November of 1989. Washington law establishes that all legal interpreters, whether certified or not, must follow the Code of Conduct.

Preamble: All language interpreters serving in a legal proceeding, whether certified or uncertified, shall abide by the following Code of Conduct:

A language interpreter who violates any of the provisions of this code is subject to a citation for contempt, disciplinary action or any other sanction that may be imposed by law. The purpose of this Code of Conduct is to establish and maintain high standards of conduct to preserve the integrity and independence of the adjudicative system.

(a) A language interpreter, like an officer of the court, shall maintain high standards of personal and professional conduct that promote public confidence in the administration of justice.

(b) A language interpreter shall interpret or translate the material thoroughly and precisely, adding or omitting nothing, and stating as nearly as possible what has been stated in the language of the speaker, giving consideration to variations in grammar and syntax for both languages involved. A language interpreter shall use the level of communication that best conveys the meaning of the source, and shall not interject the interpreter's personal moods or attitudes.

(c) When a language interpreter has any reservation about ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the parties and to the court. If the communication mode or language of the non-English-speaking person cannot be readily interpreted, the interpreter shall notify the appointing authority or the court.

(d) No language interpreter shall render services in any matter in which the interpreter is a potential witness, associate, friend, or relative of a contending party, unless a specific exception is allowed by the appointing authority for good cause noted on the record. Neither shall the interpreter serve in any matter in which the interpreter has any interest, financial or otherwise, in the outcome. Nor shall any language interpreter serve in a matter where the interpreter has participated in the choice of counsel.

(e) Except in the interpreter's official capacity, no language interpreter shall discuss, report, or comment upon a matter in which the person serves as interpreter. Interpreters shall not disclose any communication that is privileged by law without written consent of the parties to the communication, or pursuant to court order.

(f) A language interpreter shall report immediately to the appointing authority in the proceeding any solicitation or effort by another to induce or encourage the

interpreter to violate any law, any provision of the rules which may be approved by the courts for the practice of language interpreting, or any provisions of this Code of Conduct.

(g) Language interpreters shall not give legal advices and shall refrain from the unauthorized practice of law.

[Adopted effective November 17, 1989]

[By orders dated November 2, 1989, the Supreme Court adopted GR 11.1 and CrRLJ 3.2(0) and amended CR 79 (e) to read as set forth below. Effective November 17, 1989.]

GR 11.1 the use of qualified interpreters is authorized in judicial proceedings involving hearing impaired or non-English-speaking individuals [adopted effective July 17, 1987].

APPENDIX E

Comments on the Code of Conduct

COMMENTS ON THE CODE OF CONDUCT

By: Court Interpreter Task Force

The Court Interpreter Task Force published comments to its proposed code in 1986. These comments are useful because they expand on issues covered by various provisions of the Code of Conduct for court interpreters.

Standards

The Code of Judicial Conduct (CJC) Canons 1 and 3 require high standards of conduct by judges, their staff, and court officials. Such standards apply to interpreters as well. Interpreters are the vital link in communication between litigants and the court. Conflicts of interest may consciously or subconsciously affect the quality or substance of an interpretation or translation. The need for unquestioned integrity among interpreters is obvious. These Canons apply to interpreters and translators for both the D/HH/DB and for individuals who speak a language other than English. CJC Canon 3 requires court personnel and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge.

Accuracy

The interpreter should utilize the same level of language used by the speaker. This means that the interpreter will interpret colloquial, slang, obscene or crude language, as well as sophisticated and erudite language, in accordance with the exact usage of the speaker. It is not the interpreter's task to tone down, improve, or edit phrases.

Unless the interpreter is faithful to this concept of accurate interpretation, he or she may act as a filter or buffer in the communication process. This could damage the integrity of the trial process, which is based on an adversarial system with vigorous examination and cross-examination. Consequently, the substance of questions posed and answers given during the testimony should not be altered more than absolutely necessary to assure comprehension.

The interpreter should not assume that it is his or her duty to simplify statements for a witness or defendant whom the interpreter believes cannot understand the speaker's statements. Like witnesses who do not use an interpreter, interpreted witnesses can and should request counsel or the court to explain or simplify matters if necessary.

An interpreter should never characterize or give a gratuitous explanation of testimony. The court or attorneys will request clarification from the speaker if necessary. The court and counsel should be sensitive to possible confusion by the witness. During testimony, the interpreter may volunteer to the court his or her belief that the witness does not understand a particular question or comment.

Idioms, proverbs and sayings rarely can be interpreted literally. The interpreter should seek an equivalent idiom or relate the meaning of the original idiom or saying.

While interpreting a non-English language, the interpreter should not offer an explanation or repeat a witness' gesture or grimace, which has been seen by the trier of fact.

Interpreters for the deaf or hearing-impaired should use the method of interpreting most rapidly understood by the deaf or hearing-impaired witness. For example, the witness may be more articulate in American Sign Language than in manually coded English or finger spelling.

Meaning

A court interpreter or legal translator is often faced with new technical terms, slang, regional language differences, and other problems posing difficulty in accurate interpretations or translations.

The interpreter or translator must take time, and be given appropriate time by the court, to determine an appropriate and accurate interpretation or translation of the material. If unable to interpret or translate the material, the parties and the court must be advised so the court can take appropriate action. When necessary, another, better-qualified interpreter should be substituted. Before such substitution, the court may determine whether another linguistic approach can be used for the same result in communication. For example, a different choice of words to be interpreted may solve the problem.

Impartiality

The purpose is to avoid any actual or potential conflict of interest. CJC Canon 3 requires similar disqualification of a judge because of a conflict of interest. Interpreters should maintain an impartial attitude with defendants, witnesses, attorneys, and families. They should neither conceive of themselves nor permit themselves to be used as an investigator for any party to a case. They should clearly indicate their role as an interpreter if they are asked by either party to participate in interviews of prospective witnesses outside of the court. Interpreters should not “take sides” or consider themselves aligned with the prosecution or the defense.

See comment to Canon 6, which discusses the use of interpreters in client and witness interviews. Care must be taken to avoid exposing an interpreter to unnecessary conflict of becoming a potential witness on the merits.

Both court interpreters and jurors should be apprised of the identity of each during voir dire to help determine whether any juror knows the interpreter.

The fees and remuneration of a court interpreter or legal translator shall never be contingent upon the success or failure of the cause in which he/she has been engaged.

Interpreters and translators shall not interpret in any matter in which his/her employer has an interest as an advocate, litigant or otherwise.

Interpreters shall be limited to the role of communication facilitators.

No interpreter who has served as an investigator assisting in preparation for litigation shall serve as a court interpreter in that case.

Personal Opinion

To promote the trust and integrity of the judicial system, it is important that court officials, including interpreters and translators, refrain from commenting publicly regarding an action. Interpreters and translators shall not offer an opinion to anyone regarding the credibility of witnesses, the prospective outcome of a case, the propriety of a verdict, the conduct of a case, or any other matter not already available by public record.

Legal Advice

The interpreter shall never give legal advice of any kind to the non-English-speaking person or to any other person, whether solicited or not. In all instances, the non-English-speaking person should be referred to counsel. The interpreter may give general information to a non-English-speaking person regarding the time, place, and nature of court proceeding. However, in matters requiring legal judgment, the individual should be referred to an attorney.

The interpreter should never function as an individual referral service for any particular attorney or attorneys. This kind of activity has the appearance of impropriety. When asked to refer a non-English-speaking person to a particular attorney, the interpreter should refer such individual to the local bar association or to the Office of the Public Defender.

APPENDIX F

Current List of Credentialed Foreign Languages (Registered and Certified)

List of Credentialed Languages

The list below includes the languages in which an interpreter can become certified or registered. The languages for which Washington currently has credentialed interpreters can be found by using the interpreter search on the Court Interpreter Program website: <http://www.courts.wa.gov/interpreters>

Certified Languages*

Arabic	Mandarin
Bosnian/Croatian/Serbian	Marshallese
Cantonese	Russian
French	Spanish
Khmer	Tagalog
Korean	Vietnamese
Laotian	

Registered Languages*

Afrikaans	Hindi	Kazakh	Slovak
Akan-Twi	Hmong/Mong	Kikongo-Kongo	Somali
Albanian	Hungarian	Krio	Swahili
Amharic	Ga	Kurdish	Swedish
Armenian	Georgian	Latvian	Tajik
Azerbaijani	German	Lithuanian	Tamil
Baluchi	Greek	Macedonian	Tausug
Bambara	Gujarati	Malay	Telugu
Bengali	Haitian Creole	Malayalam	Thai
Bulgarian	Hausa	Mandingo-Bambara	Tibetan
Burmese	Hebrew	Nepali	Tigrinya
Cebuano	Igbo	Pashto	Turkish
Chavacano	Ilocano	Persian/Farsi	Turkmen
Czech	Indonesian	Polish	Uighur
Dari	Italian	Portuguese	Ukrainian
Dutch	Jamaican Patois	Punjabi	Urdu
Ewe*	Japanese	Romanian	Uzbek
Fulani/Fulfulde	Javanese	Samoan	Wolof
Hiligaynon	Kashmiri	Sindhi	Wu
		Sinhalese	Yoruba

*The list of certified and registered languages is subject to change based on the availability of a testing instrument and testing decisions made by the AOC Interpreter Program. If you have any questions or would like to confirm the availability of the test please, please contact: interpreters@courts.wa.gov.

APPENDIX G

Local Superior Court Rules/Procedures for Requesting and/or Requiring an Interpreter

SAMPLE COURT POLICIES AND LOCAL RULES

CHELAN COUNTY COURT POLICY FOR PROVISION OF AN INTERPRETER IN CIVIL MATTERS

This policy sets forth the procedures for providing language services in County Courts to persons whose primary language is not English. The intent of this policy is to ensure meaningful access to the judicial process for all persons who do not speak or understand English well.

A. PROVIDING NOTICE OF THE RIGHT TO AND AVAILABILITY OF INTERPRETER SERVICES

1. The [insert name of court office] shall post and maintain a Notice regarding the legal right to free interpreter services in civil cases.
2. The Notice shall describe how court users may obtain interpreter services in civil cases and shall be posted near the court entrance, at the information desk, on public information bulletin boards, courtrooms, and in public places in the offices of the District and Superior Court Clerk, Juvenile Court Clerk, Court Administrator, and the Family Court Facilitator.
3. The Notice shall include the following statement: "If you need an interpreter to help you communicate in court, one will be provided to you without charge to you. Go to [insert room number], located [floor #] of the Courthouse for assistance in obtaining an interpreter."
4. The Notice shall be translated in the commonly encountered languages of the courts and posted as described in paragraph 2. Notices shall be printed in (list languages) and English, and in other languages as needed in the future.
5. If a judge, other court employee, or employee of the Clerk's office observes that a litigant is having difficulty communicating in English, they shall provide the litigant with a copy of the Notice and take reasonable measures to direct the litigant to the [insert name of appropriate court office].
6. The Court Administrator shall provide copies of the Notice to all judges, employees of District and Superior Court Clerks' offices, and other court personnel.
7. The Notice of Interpreter Services shall be distributed to organizations providing assistance to litigants with limited English proficiency, including Northwest Justice Project, Columbia Legal Services, Volunteer Attorney Services, local domestic violence programs and other community based organizations in (insert County).
8. This policy and the Notice of Interpreter Services shall be posted on the website for all County courts (District, Juvenile, and Superior) and the Clerks' offices, and shall include a link in [insert languages] leading to the form and instructions in [insert languages].

B. REQUESTING AN INTERPRETER

1. All parties having limited ability to speak or understand the English language shall, when filing a noting a matter for hearing, setting a case for trial, or scheduling a settlement conference, indicate that an interpreter is needed on the scheduling form required by local rule. Where any party filing a Note for Motion, Note for Trial Setting and Initial Statement of Arbitrability, or Order Scheduling Settlement Conference knows or, after reasonable inquiry has reason to believe, that any other party to the action has limited ability to speak or understand the English language, the party scheduling the matter shall indicate on the required scheduling form that an interpreter is needed. The party filing the scheduling form shall simultaneously with such filing provide a copy of the scheduling form to the [insert appropriate office].
2. The [insert name of court office] will arrange for an interpreter to assist a litigant in completing the scheduling form if needed.
3. The interpreter shall be provided at no cost to the litigant.
4. A certified interpreter shall be appointed unless good cause is found to appoint a qualified interpreter as required by RCW 2.43.030
5. The scheduling form shall be filed with the court by [insert name of appropriate court office] and an interpreter will be provided in all subsequent proceedings, including motions and settlement conferences, without further action by the litigant.
6. The [insert name of appropriate court office] office shall do the following upon receipt of a request for interpreter form:
 - a. Ensure the language need is reflected on any appropriate case tracking system;
 - b. Identify upcoming hearings and ensure the interpreter's office is informed about the need for an interpreter in a reasonable amount of time;
 - c. If setting cases for court, check the name screen in SCOMIS to determine if interpreter services are needed on the case.
7. Attorney(s) shall advise the Court if a hearing for which an interpreter is scheduled is cancelled or continued by [insert procedure for canceling interpreter].

C. ASSURING INTERPRETER SERVICES ARE PROVIDED

1. Court staff who provide direct services to the public shall have access to in-person or telephonic interpreter services to allow them to communicate without excessive delay with LEP persons.
2. Court Administration [insert appropriate court office] will provide training for staff members who are often the first points of contact with Limited English Proficient (LEP) court users. Training will involve techniques to assist LEP people, use of

Notice of Interpreter Services to help LEP court users get to interpreter services, and other ways to deliver services to non-English speaking people. Court Administration [identify court office] will train new employees on ensuring LEP court users have access to the courts and this training will be part of their new employee orientation. In addition, the court administrative staff will incorporate broader LEP training into its existing training programs, including the Judicial Branch orientation.

3. Monitoring

Annually, Court Administration [insert name of appropriate person] will coordinate with the court staff delivering interpreter services to review the effectiveness of its policy for delivering services to non-English speakers. The evaluation will include identification of any problems areas and development of required corrective actions strategies. Elements of the evaluation will include:

- Number of LEP persons requesting court interpreters in County.
- Assessment of current language needs to determine if additional services or translated materials should be made available
- Assessing whether staff members adequately understand LEP policies and procedures and how to carry them out

POLICY: SCO 5.05 LANGUAGE AND HEARING IMPAIRED INTERPRETER SERVICES

This policy provides guidelines for the appointment and management of Interpreter Services for non-English speaking and hearing impaired litigants as mandated by RCW 2.42 – 2.43.

Administration of Interpreter Services

Superior Court Judge's approve the compensation and utilization of interpreters and hearing-impaired providers as they relate to court business.

The Court Administrator will establish guidelines; policies and financial procedures for approval of these services for court related matters. These guidelines and related policies will be shared with the Snohomish County Bar Association, the Office of Public Defense, and the Public Defender.

Certification of Interpreters

Snohomish County Superior Court will appoint service providers for hearing impaired, speech impaired and non-English speaking persons as per RCW 2.42 – 2.43.

To qualify for non-English appointment the interpreter must be registered through Office of the Administrator of the Courts and be listed on the registry. The Assistant Court Administrator/designee will maintain copies of current registries for interpreter appointment.

To qualify for hearing impaired (deaf, deaf & blind or otherwise) appointment the service provider must be registered through the Department of Social and Health Services.

Court Administration finance division will keep a copy of lists to verify certification for appointment of these professionals.

Non-certified interpreters may be used when the list of certified interpreters is unable to take the assignment.

Eligibility for Interpreter Services

Court Administration will approve services for any person who is a participant in the proceeding by virtue of having been subpoenaed, summoned, or otherwise compelled by the court to appear.

In civil proceeding the cost of providing the service is the responsibility of the non-English speaking person, unless the person is indigent and demonstrates indigence to Court Administration.

If the court requests an interpreter be assigned to a case, the court will pay the interpreter fees.

“Impaired person” means a person who, because of hearing or speech impairment, cannot readily understand or communicate a spoken language; and includes persons who are deaf, deaf and blind, speech impaired, or hard of hearing.

“Non-English-speaking person,” means any person involved in a legal proceeding that cannot readily speak or understand the English language.

Appointment of Interpreters

Court Administration will accept requests for interpreters with the completed paperwork from appointed prosecuting attorneys, office of assigned counsel, office of public defender, county clerk, *pro se* litigants and appointed or privately retained attorneys of record for all court hearings and court related matters outlined in policy.

Snohomish County may retain interpreters individually on an as needed basis.

Interpreters are not assigned to individual cases and are not retained on a per case basis.

The *pro se* party/counsel remain responsible to convey correct information regarding billing and all future court dates, as well as times and locations of hearings to the assigned interpreter

Due to their impartial status in the courtroom, if it is agreed by the parties, one interpreter can be hired to interpret for two separate parties.

Responding to Requests for Non-English Speaking/Hearing Impaired Interpreter Services

Superior Court administrative staff will assist parties in completing the necessary documents to obtain interpreters for court related business.

Individuals acting as *pro se* will need to provide the following information; name of party to court action; cause number, court dates/times/location of hearing. If requested Court Administration will provide a copy of the certified interpreter list if the party wishes to contact the interpreter independently. The party remains responsible to relay correction information regarding billing and all court dates, times and locations of hearings for the interpreter.

Processing Judicial and/or Pro Se Requests for Services

Superior Court staff will assist in obtaining interpreters for court related hearings as requested by a Superior Court Judge/Court Commissioner.

The designated staff person shall maintain an updated list of community providers, the certification lists and equipment (ALD's) for service requests.

SAMPLE POLICY

A. Note for Motion

If the party noting the matter for hearing has limited ability to speak or understand the English language, or if such party knows or, after reasonable inquiry has reason to believe, that any other party to the action has limited ability to speak or understand the English language, the party noting the matter for hearing shall indicate on the Note for Motion form that an interpreter is needed. The party filing the Note for Motion shall simultaneously with such filing provide a copy of the Note for Motion to the (insert appropriate staff person.)

B. Settlement Conference

If the party presenting such order has limited ability to speak or understand the English language, or if such party knows or, after reasonable inquiry has reason to believe, that any other party to the action has limited ability to speak or understand the English language, the party presenting such Order for entry shall indicate on such order that an interpreter is needed and the language for which the interpretation is needed. The party presenting such order for entry shall, substantially simultaneously with the entry of such order, provide a copy thereof to the (insert appropriate staff person).

C. Trial Setting and Mandatory Arbitration

If the party filing the Note for Trial Setting and Initial Statement of Arbitrability has limited ability to speak or understand the English language, or if such party knows or, after reasonable inquiry has reason to believe, that any other party to the action has limited ability to speak or understand the English language, the party noting the matter for trial shall indicate on the Note for Trial Setting and Initial Statement of Arbitrability that an interpreter is needed. The party filing the Notice of Trial Setting and Initial Statement of Arbitrability shall, simultaneously with such filing, provide a copy of the Notice of Trial Setting and Initial Statement of Arbitrability to the (insert appropriate staff person).

D. LOCAL RULE LR 1

REQUIRING THAT MATTERS NEEDING AN INTERPRETER BE SET ON CALENDAR WHERE INTERPRETER IS REGULARLY SCHEDULED

(a) Except as otherwise provided in LR (1)(b) hereof, Domestic Relations and Show Cause hearings will be held each Monday at 1:30 p.m. (attorneys) and Tuesdays at 2:00 p.m.(pro se).

(b) All Domestic Relations and Show Cause hearings requiring a Spanish interpreter shall be set on the Tuesday Domestic Relations Calendar, including those hearings in which at least one party is represented by an attorney.

APPENDIX H

Best Practices for Scheduling Interpreters for Court Hearings

Best Practices for Scheduling Interpreters

When scheduling interpreters, designated court staff will take the necessary precautions to ensure that the interpreter is qualified to render services pursuant to RCW 2.43.030 and 2.42.120.

1. The court interpreter scheduler shall make a determination of the appropriate number of interpreters required for each type of legal proceeding:
 - **For long evidentiary hearings and trials**, schedule two interpreters working as a team. When no second interpreter can be reasonably procured, the court shall program 10 minutes breaks every 30 minutes to avoid interpreter fatigue and preserve accuracy.
 - **When both, a witness and a defendant are LEP**, speaking the same LOTE (Language Other Than English), schedule two interpreters working as a team. While one interpreter works in consecutive mode at the witness stand, the other interpreter is available to interpret privileged communications between defense attorney and a defendant. To avoid interpreter fatigue and preserve accuracy, these two interpreters may also switch with each other at the witness stand.
 - **When there are co-defendants**. The court shall schedule as many interpreters as there are channels of privileged communications. For example, 3 interpreters will be scheduled for 3 co-defendants; each of these interpreters will be assigned specifically to interpret during confidential communications between a co-defendant and his/her lawyer. In open court these interpreters will be working as a team, providing simultaneous interpreting for all LEP co-defendants, using interpreting equipment.
2. Court will provide interpreters not only with the basic information about the case, but also with relevant court documents. To interpret accurately, interpreters need to have copies of the documents other parties have, such as:
 - Police Report
 - Guilty Plea form
 - Jury Pool Roster
 - Defense Trial Memorandum
 - Prosecution Trial Memorandum
 - Jury Instructions
 - Other
3. The LEP or D/HH/DB person may waive his or her right to the assistance of an interpreter, only if the waiver is made knowingly, voluntarily, and on the record. The waiver of an interpreter may be rejected or revoked.

APPENDIX I

Model Interpreter Request Form

SAMPLE INTERPRETER REQUEST FORM-SPANISH

My Name (Mi Nombre)

Address (Domicilio)

City, State, Zip (Ciudad, Estado, Código postal)

Phone (Teléfono)

Email (Correo electrónico)

File this form with the clerk of the court in which the case is pending at least 3 days before the hearing or it may have to be postponed.

(Presente este formulario a la secretaria judicial en el tribunal donde esta pendiente el caso por lo menos 3 días antes de la audiencia, o sea que resultará en un aplazamiento)

- (1) I do not understand or communicate in English, and I request an interpreter.
(Yo no entiendo ni puedo comunicarme en Ingles, y solicito un intérprete)
- (2) I speak Spanish.
(Yo hablo español)
- (3) Please provide the following information if you know it:
(Por favor proporcione la información a seguir, si es que la sabe)

Case Name (Nombre de Caso)

Case Number (Número de Caso)

Judge Assigned to Case (Juez asignado al Caso)

Date and Time of Next Hearing (Fecha y Hora de la próxima audiencia)

- (4) Person who needs the interpreter:
(Persona quien necesita el intérprete)

Me (Yo)

My witnesses (Mis testigos)

Name (Nombre)

Sign here ►
(Firme aquí) ►

Date(Fecha) Typed or Printed Name
(Nombre con letra de molde)

Sample Interpreter Request Form

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
EN LA CORTE SUPERIOR DEL ESTADO DE WASHINGTON
IN AND FOR YAKIMA COUNTY
EN Y POR EL CONDADO DE YAKIMA

_____,)
)
) Petitioner,) NO. _____
) **Solicitante**) **Número**
 Vs.)) REQUEST FOR
)) INTERPRETER SERVICES
_____,)
) **PETICIÓN DE**
) **SERVICIOS DE INTÉRPRETE**
) Respondent.)
) **Demandado**)

I, _____, hereby request the services of an Interpreter for
Por la presente, yo _____, pido los servicios de Intérprete para el

_____ language in all court hearings under this cause number.
(example: Spanish) **(idioma) en todas las audiencias debajo este numero de caso..**

(Ejemplo: Español)

DATED this _____ day of _____, 20__.

FECHADO este día _____ de _____, 20__.

(Signature)
(Firma)

FULL NAME:

NOMBRE COMPLETO: _____

MAILING

ADDRESS: _____

DOMICILIO: _____

Sample Generic Version: English

Request for Court Interpreter

My Name

Address

City, State, Zip

Phone

Email

File this form with the clerk of the court in which the case is pending at least 3 days before the hearing or it may have to be postponed.

- (1) I do not understand or communicate in English, and I request an interpreter.
- (2) I speak _____ (language).
- (3) Please provide the following information if you know it:

Case Name

Case Number

Judge Assigned to Case

Date and Time of Next Hearing

- (5) Person who needs the interpreter:

Me

My witnesses

Name

Date

Sign here ►

Typed or Printed Name

APPENDIX J

Model Language Needs Assessment Survey



LANGUAGE NEEDS ASSESSMENT SURVEY

Court Name: _____

County: _____

Person Completing Assessment: _____

Contact Information (phone and Email): _____

INTERPRETER NEED AND AVAILABILITY

A. Please rank how often your court used the following Washington State court interpreter-credentialed languages in the past year, on average, using the following scale: (1) daily, (2) weekly, (3) monthly, (4) once every six months, (5) once every year or (6) rarely/never.

		In-Person	Telephonic	Other
Arabic	(A)	_____	_____	_____
Cantonese	(C)	_____	_____	_____
Korean	(K)	_____	_____	_____
Laotian	(L)	_____	_____	_____
Mandarin	(M)	_____	_____	_____
Russian	(R)	_____	_____	_____
Somali	(SO)	_____	_____	_____
Spanish	(SP)	_____	_____	_____
Vietnamese	(V)	_____	_____	_____
Sign Language	(ASL)	_____	_____	_____
Other:	_____	_____	_____	_____

B. Of the languages (including ASL) for which Washington court interpreter credentialing is offered, name the languages where there are insufficient numbers of credentialed interpreters in your area:

C. Please estimate the availability of certified interpreters in your court. Please use the following codes to designate each language when filling in the blanks below:

Arabic(A); Cantonese(C); Korean(K); Laotian(L); Mandarin(M); Russian(R); Somali(SO); Spanish (SP) Vietnamese(V); ASL(ASL)

	In-Person	Telephonic	Other
Can always find certified interpreters	_____	_____	_____
Can usually find certified interpreters	_____	_____	_____
Can rarely find certified interpreters	_____	_____	_____
Rarely use certified interpreters	_____	_____	_____
Never use certified interpreters	_____	_____	_____

D. Please rank in order of need the (currently in WA) uncertified languages for which your court most frequently requires interpreters, with 1 being the most frequent and 5 the least used (leave blank if not applicable). These are languages for which certification is currently offered by the National Consortium of State Courts (NCSC).

French	_____
Haitian Creole	_____
Hmong	_____
Polish	_____
Portuguese	_____
Serbian	_____

E. Please indicate whether you have ever used an interpreter in one of the following languages (These are all languages for which the Washington State Interpreter Program now offers “registration,” which consists of both a written and oral evaluation of the interpreter’s language skills).

Afrikaans	_____	German	_____	Persian Farsi	_____
Albanian	_____	Haitian Creole	_____	Polish	_____
Amharic	_____	Hebrew	_____	Portuguese	_____
		Hilgaynon	_____	Punjabi	_____
Baluchi	_____	Hindi	_____	Romanian	_____
Bengali	_____	Hmong	_____	Samoan	_____
				Serbian	_____
Bulgarian	_____	Ilonggo	_____	Slovak	_____
Cebuano	_____	Indonesian	_____		
Chavacano	_____	Italian	_____	Swahili	_____
Croatian	_____	Japanese	_____	Swedish	_____
Czech	_____	Javanese	_____	Tausug	_____
Dari	_____	Khmer	_____	Thai	_____
Dutch	_____	Malay	_____	Turkish	_____
Egyptian	_____			Urdu	_____
Filipino	_____	Norwegian	_____	Visayan	_____
French	_____	Pashto	_____		

F. List any other languages for which you have used interpreters in the past year. Also please list any emerging trends in your communities that impact the use of language interpreters (e.g. influx of immigrants):

Services and Materials Currently in Use:

G. Notice to Limited English Proficient individuals of services.

Use of "I speak" cards:

→ **No** → **Yes**

Posted translated notices (please indicate which languages):

→ **No** → **Yes**

Translated Brochures (please indicate which languages):

→ **No** → **Yes**

H. Please list what bilingual forms (by language) are being used to assist limited English proficient clients:

I. Does your court use bilingual staff to assist limited English proficient clients?

→ **No** → **Yes** If yes, please give language and number of hours per staff:

J. Does your court use interpreter pools or language lines to assist limited English proficient clients? → **No** → **Yes** (please describe how limited English proficient clients are provided interpreters by court personnel outside the courtroom):

K. Please list all court-mandated programs and services and indicate whether interpreter services are provided:

			Resources needed
i. Diversion Programs	→ No	→ Yes	_____
ii. Parenting Classes	→ No	→ Yes	_____
iii. Domestic Violence Treatment	→ No	→ Yes	_____
iv. Anger Management	→ No	→ Yes	_____
v. Mediation	→ No	→ Yes	_____
vi. Arbitration	→ No	→ Yes	_____
vii. Settlement Conferences	→ No	→ Yes	_____
viii. Substance Abuse Counseling	→ No	→ Yes	_____
ix. Courthouse Facilitators.	→ No	→ Yes	_____

Please list any other programs provided and indicate whether interpreters are provided and, if not, what resources would be needed to provide them.

x. _____	→ No	→ Yes	_____
xi. _____	→ No	→ Yes	_____

L. Rate of Pay.

Please list your hourly rate for certified interpreters \$ _____

Please list your hourly rate for non-certified interpreters \$ _____

Are interpreters guaranteed a minimum amount of time?

→ No → Yes (if so, how much?) _____ hrs

Does the court pay: → mileage → travel time → waiting time

M. Please list any tracking or reporting mechanisms used in your court specifically to calculate the use of interpreters (certified and non-certified):

N. Please list total number of staff and numbers of staff trained in the past year (including judges, court administrators, or line staff) on how to work with interpreters. Please also include suggestions of additional topics for trainings.

APPENDIX K

Department of Justice 2010 Letter to State Court Chief Justices and State Court Administrators



U. S. Department of Justice

Civil Rights Division

Assistant Attorney General

Washington, D.C. 20530

August 16, 2010

Dear Chief Justice/State Court Administrator:

In the past decade, increasing numbers of state court systems have sought to improve their capacity to handle cases and other matters involving parties or witnesses who are limited English proficient (LEP). In some instances the progress has been laudable and reflects increased recognition that language access costs must be treated as essential to sound court management. However, the Department of Justice (DOJ) continues to encounter state court language access policies or practices that are inconsistent with federal civil rights requirements. Through this letter, DOJ intends to provide greater clarity regarding the requirement that courts receiving federal financial assistance provide meaningful access for LEP individuals.

Dispensing justice fairly, efficiently, and accurately is a cornerstone of the judiciary. Policies and practices that deny LEP persons meaningful access to the courts undermine that cornerstone. They may also place state courts in violation of long-standing civil rights requirements. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.* (Title VI), and the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3789d(c) (Safe Streets Act), both prohibit national origin discrimination by recipients of federal financial assistance. Title VI and Safe Streets Act regulations further prohibit recipients from administering programs in a manner that has the effect of subjecting individuals to discrimination based on their national origin. *See* 28 C.F.R. §§ 42.104(b)(2), 42.203(e).

The Supreme Court has held that failing to take reasonable steps to ensure meaningful access for LEP persons is a form of national origin discrimination prohibited by Title VI regulations. *See Lau v. Nichols*, 414 U.S. 563 (1974). Executive Order 13166, which was issued in 2000, further emphasized the point by directing federal agencies to publish LEP guidance for their financial assistance recipients, consistent with initial general guidance from DOJ. *See* 65 Fed. Reg. 50,121 (Aug. 16, 2000). In 2002, DOJ issued final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. 67 Fed. Reg. 41,455 (June 18, 2002) (DOJ Guidance). The DOJ Guidance and subsequent technical assistance letters from the Civil Rights Division explained that court systems receiving federal financial assistance, either directly or indirectly, must provide meaningful access to LEP persons in order to comply with Title VI, the Safe Streets Act, and their implementing regulations. The federal requirement to provide language assistance to LEP individuals applies notwithstanding conflicting state or local laws or court rules.

Despite efforts to bring courts into compliance, some state court system policies and practices significantly and unreasonably impede, hinder, or restrict participation in court proceedings and access to court operations based upon a person's English language ability. Examples of particular concern include the following:

1. Limiting the types of proceedings for which qualified interpreter services are provided by the court. Some courts only provide competent interpreter assistance in limited categories of cases, such as in criminal, termination of parental rights, or domestic violence proceedings. DOJ, however, views access to *all* court proceedings as critical. The DOJ Guidance refers to the importance of meaningful access to courts and courtrooms, without distinguishing among civil, criminal, or administrative matters. *See* DOJ Guidance, 67 Fed. Reg. at 41,462. It states that "every effort should be taken to ensure competent interpretation for LEP individuals during *all* hearings, trials, and motions," *id.* at 41,471 (emphasis added), including administrative court proceedings. *Id.* at 41,459, n.5.

Courts should also provide language assistance to non-party LEP individuals whose presence or participation in a court matter is necessary or appropriate, including parents and guardians of minor victims of crime or of juveniles and family members involved in delinquency proceedings. Proceedings handled by officials such as magistrates, masters, commissioners, hearing officers, arbitrators, mediators, and other decision-makers should also include professional interpreter coverage. DOJ expects that meaningful access will be provided to LEP persons in all court and court-annexed proceedings, whether civil, criminal, or administrative including those presided over by non-judges.

2. Charging interpreter costs to one or more parties. Many courts that ostensibly provide qualified interpreters for covered court proceedings require or authorize one or more of the persons involved in the case to be charged with the cost of the interpreter. Although the rules or practices vary, and may exempt indigent parties, their common impact is either to subject some individuals to a surcharge based upon a party's or witness' English language proficiency, or to discourage parties from requesting or using a competent interpreter. Title VI and its regulations prohibit practices that have the effect of charging parties, impairing their participation in proceedings, or limiting presentation of witnesses based upon national origin. As such, the DOJ Guidance makes clear that court proceedings are among the most important activities conducted by recipients of federal funds, and emphasizes the need to provide interpretation free of cost. Courts that charge interpreter costs to the parties may be arranging for an interpreter's presence, but they are not "providing" the interpreter. DOJ expects that, when meaningful access requires interpretation, courts will provide interpreters at no cost to the persons involved.

3. Restricting language services to courtrooms. Some states provide language assistance only for courtroom proceedings, but the meaningful access requirement extends to court functions that are conducted outside the courtroom as well. Examples of such court-managed offices, operations, and programs can include information counters; intake or filing offices; cashiers; records rooms; sheriff's offices; probation and parole offices; alternative dispute resolution programs; *pro se* clinics; criminal diversion programs; anger management classes; detention facilities; and other similar offices, operations, and programs. Access to these points of public contact is essential to the fair administration of justice, especially for unrepresented LEP persons. DOJ expects courts to provide meaningful access for LEP persons to such court operated or managed points of public contact in the judicial process, whether the contact at issue occurs inside or outside the courtroom.

4. Failing to ensure effective communication with court-appointed or supervised personnel. Some recipient court systems have failed to ensure that LEP persons are able to communicate effectively with a variety of individuals involved in a case under a court appointment or order. Criminal defense counsel, child advocates or guardians *ad litem*, court psychologists, probation officers, doctors, trustees, and other such individuals who are employed, paid, or supervised by the courts, and who are required to communicate with LEP parties or other individuals as part of their case-related functions, must possess demonstrated bilingual skills or have support from professional interpreters. In order for a court to provide meaningful access to LEP persons, it must ensure language access in all such operations and encounters with professionals.

DOJ continues to interpret Title VI and the Title VI regulations to prohibit, in most circumstances, the practices described above. Nevertheless, DOJ has observed that some court systems continue to operate in apparent violation of federal law. Most court systems have long accepted their legal duty under the Americans with Disabilities Act (ADA) to provide auxiliary aids and services to persons with disabilities, and would not consciously engage in the practices highlighted in this letter in providing an accommodation to a person with a disability. While ADA and Title VI requirements are not the same, existing ADA plans and policy for sign language interpreting may provide an effective template for managing interpreting and translating needs for some state courts.

Language services expenses should be treated as a basic and essential operating expense, not as an ancillary cost. Court systems have many operating expenses – judges and staff, buildings, utilities, security, filing, data and records systems, insurance, research, and printing costs, to name a few. Court systems in every part of the country serve populations of LEP individuals and most jurisdictions, if not all, have encountered substantial increases in the number of LEP parties and witnesses and the diversity of languages they speak. Budgeting adequate funds to ensure language access is fundamental to the business of the courts.

We recognize that most state and local courts are struggling with unusual budgetary constraints that have slowed the pace of progress in this area. The DOJ Guidance acknowledges that recipients can consider the costs of the services and the resources available to the court as part of the determination of what language assistance is reasonably required in order to provide meaningful LEP access. *See id.* at 41,460. Fiscal pressures, however, do not provide an exemption from civil rights requirements. In considering a system's compliance with language access standards in light of limited resources, DOJ will consider all of the facts and circumstances of a particular court system. Factors to review may include, but are not limited to, the following:

- The extent to which current language access deficiencies reflect the impact of the fiscal crisis as demonstrated by previous success in providing meaningful access;
- The extent to which other essential court operations are being restricted or defunded;
- The extent to which the court system has secured additional revenues from fees, fines, grants, or other sources, and has increased efficiency through collaboration, technology, or other means;
- Whether the court system has adopted an implementation plan to move promptly towards full compliance; and
- The nature and significance of the adverse impact on LEP persons affected by the existing language access deficiencies.

DOJ acknowledges that it takes time to create systems that ensure competent interpretation in all court proceedings and to build a qualified interpreter corps. Yet nearly a decade has passed since the issuance of Executive Order 13166 and publication of initial general guidance clarifying language access requirements for recipients. Reasonable efforts by now should have resulted in significant and continuing improvements for all recipients. With this passage of time, the need to show progress in providing all LEP persons with meaningful access has increased. DOJ expects that courts that have done well will continue to make progress toward full compliance in policy and practice. At the same time, we expect that court recipients that are furthest behind will take significant steps in order to move promptly toward compliance.

The DOJ guidance encourages recipients to develop and maintain a periodically-updated written plan on language assistance for LEP persons as an appropriate and cost-effective means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance. Such written plans can provide additional benefits to recipients' managers in the areas of training, administrating, planning, and budgeting. The DOJ Guidance goes on to note that these benefits should lead most recipients to document in a written LEP plan their language assistance services, and how staff and LEP persons can access those services. In court systems, we have found that meaningful access inside the courtroom is most effectively implemented in states that have adopted a court rule, statute, or administrative order providing for universal, free, and qualified court interpreting. In addition, state court systems that have strong leadership and a designated coordinator of language services in the office of the court administrator, and that have identified personnel in charge of ensuring language access in each courthouse, will more likely be able to provide effective and consistent language access for LEP

individuals. Enclosed, for illustrative purposes only, are copies of Administrative Order JB-06-3 of the Supreme Judicial Court of Maine, together with the September 2008 Memorandum of Understanding between that court and DOJ. Also enclosed for your information is a copy of "Chapter 5: Tips and Tools Specific to Courts" from DOJ, *Executive Order 13166 Limited English Proficiency Document: Tips and Tools from the Field* (2004).

The Office of Justice Programs provides Justice Assistance Grant funds to the states to be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and criminal justice information systems that will improve or enhance criminal justice programs including prosecution and court programs. Funding language services in the courts is a permissible use of these funds.

DOJ has an abiding interest in securing state and local court system compliance with the language access requirements of Title VI and the Safe Streets Act and will continue to review courts for compliance and to investigate complaints. The Civil Rights Division also welcomes requests for technical assistance from state courts and can provide training for court personnel. Should you have any questions, please contact Mark J. Kappelhoff, Acting Chief, Federal Coordination and Compliance Section (formally known as Coordination and Review Section) at (202) 307-2222.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom E. Perez", with a stylized flourish at the end.

Thomas E. Perez
Assistant Attorney General

Enclosures

APPENDIX L

Court Interpreter Bench Card



Bench Card

Courtroom Interpreting

How do I determine whether a person needs an interpreter?

Presume a need for an interpreter when an attorney or litigant indicates a party or a witness requests one. If an interpreter is not requested, but it appears a party/witness has limited English proficiency, a judge should ask questions **on the record** to assess the need for an interpreter.

Sample questions for determining the English proficiency of a person and the need for an interpreter:

(Avoid questions easily answered with yes or no replies.)

1. How did you come to court today?
2. How did you learn English, and what is most difficult about communicating in English?
3. Please tell me about your country.
4. Tell me more about your country.
5. Describe what you see in this courtroom.
6. What is the purpose of your court hearing today?
7. **You have the right to a court-appointed interpreter.** Tell the court the best way to communicate with you and to let you know what is being said.

If the person has difficulty answering these simple questions, an interpreter is recommended. Presumably, a person unable to answer these questions is unable to communicate well in high-stress matters involving legal terminology.

Also, **if the court cannot understand the person's spoken English**, consider using an interpreter. Request that the person speak in their native language, so that the interpreter can interpret into English.

For trials and other long proceedings, court administration should hire a team of two interpreters, who will alternate interpreting approximately every 20 minutes.

When is the court required by law to provide and pay for an interpreter?

Limited English Proficient (LEP) Persons: If the court is a direct or indirect recipient of federal funding, interpreters must be provided to LEP parties and witnesses at court-expense in all case types, including parents/guardians of minor crime victims and juvenile defendants. 42 U.S.C.A. §2000d; 28 C.F.R. §§42.104, 42.203(e); 67 Fed. Reg. §41455; Lau v. Nichols, 414 U.S. 563 (1974)

If the court is not a direct or indirect recipient of federal funding, interpreters must be provided to LEP persons at court-expense in all proceedings other than civil proceedings with non-indigent parties. RCW §2.43.040

Persons who are Deaf: Courts shall furnish interpreter services, assistive listening devices, or other communication methods where necessary, to afford an individual with a disability an equal opportunity to participate in court services, programs or activities, 28 C.F.R. §35.160, unless the court can demonstrate that provision of such services "would result in a fundamental alteration in the

nature of the service, program or activity, or in undue financial and administrative burdens.” 28
C.F.R. §35.164

Preference for Certified and Registered Language Interpreters

Foreign Language

(1) Courts must appoint an AOC court certified or registered interpreter unless “good cause” is found and noted **on the record**: “good cause” = (a) certified or registered interpreter is not reasonably available or (b) the list of certified or registered interpreters does not include an interpreter in the needed language.

(2) Otherwise, the court must appoint an interpreter who is qualified on the record by the court to (a) interpret accurately; (b) is capable of communicating effectively for the court and the person; and (c) has read, understands and will abide by the code of ethics for language interpreters established by court rules (RCW §2.43.030(2)).

Sign Language

Courts must request a qualified interpreter through DSHS-ODHH or through a community center for hearing impaired persons. (2) Courts must make a preliminary determination that the interpreter can interpret accurately. (RCW §2.42.130)

According to the **Rules of Evidence**, an interpreter should be **qualified as an expert**, and administered an **oath**. WA R. Evid. 604; see *also* RCW §2.42.050; §2.43.050. Court interpreters who are certified or registered by the AOC are required to biannually submit a signed, sworn oath to the AOC. Judges do not need to swear-in these interpreters if their names and AOC credentials are stated on the record. RCW §2.43.050(3).

Sample qualification questions for interpreters NOT AOC certified or registered:

1. What credentials do you have as an interpreter?
2. What is your native language? How did you learn _____?
3. Is your dialect compatible with Mr./Ms. _____?
4. Are there any cultural or community concerns between you and Mr./Ms. _____ that the court should be aware of?
5. What is your experience interpreting in court?
6. Have you ever interpreted for any of the people involved in this case?
7. Are you able to remain fair and impartial?
8. Are you familiar with the Code of Ethics for court interpreters? Please identify three of the primary tenets under GR 11.2.
9. To the parties: Does either party have any questions for the interpreter?

Interpreter oath for interpreters NOT AOC certified or registered:

Spoken Language: Do you swear (affirm) that you will make a true interpretation to the person being examined of all the proceedings in the _____ language, and that you will repeat the statements of the person being examined to this court in the English language, to the best of your skill and judgment?

Deaf / Hearing Impaired: Do you swear (affirm) that you will make a true interpretation to the person being examined of all the proceedings in a manner which the person understands, and that you will repeat the statements of the person being examined to this court, to the best of your skill and judgment?

Clarifying the Interpreter’s Role

To assure that all participants understand the role of the interpreter, consider reading the following language at the start of a court proceeding:

The interpreter can only interpret for one person at a time, so please do not speak or interrupt while someone is testifying or speaking. The interpreter can only interpret testimony that is spoken, so all responses must be verbal. You are reminded to speak at a slower but steady pace, and make eye

contact occasionally with the interpreter to gauge whether your pace is appropriate. A slower pace is especially important when stating dates, numbers, figures or highly technical vocabulary.

As for the interpreter(s), you are bound by the Code of Conduct for Court Interpreters, and you are expected to follow its provisions. You must interpret everything that is said in this courtroom, including this information. You are not allowed to engage in any conversation with the person(s) you are interpreting for. You are not allowed to give any legal advice, or express personal opinions about this matter. You are expected to maintain confidentiality, and not publicly discuss this case. If for some reason, you need to pause the proceedings so that you can refer to a dictionary or clarify a word, please raise your hand and speak up. Are there any questions?

Tips for communicating through interpreters:

1. Instruct all participants to speak loudly and clearly and to speak one at a time.
2. Allow the interpreter to converse briefly with the non-English speaker for the limited purpose of ensuring the understanding of accents, dialect or pronunciation differences.
3. Speak directly to the non-English speaking person. Do not ask the interpreter to independently explain/restate anything said by the party.
4. The interpreter must convey all questions, answers, and courtroom dialogue, and therefore, is constantly working. Advise the interpreter to notify the court when breaks are needed.
5. Allow the interpreter to review the court file prior to the hearing, to become familiar with names, dates, and technical vocabulary.
6. Monitor the interpreter so that side conversations are not held with the non-English speaking person.
7. Recognize that court proceedings can be confusing and intimidating for a non-English speaker since other countries' legal systems and concepts often vary from those of the U.S.
8. Pause (give time for the interpreter to catch up).

For additional assistance, please contact:

AOC Court Interpreter Program at:

360-705-5279 or review information at www.courts.wa.gov/interpreters

APPENDIX M

Tips for Working with Telephonic, Video, and In-person Interpreters

Managing Telephone Interpreted Proceedings

The following suggestions and tips may help in achieving better communication through telephone interpreters. This information is provided by the New Jersey Court Interpreter Program at: www.judiciary.state.nj.us/interpreters/telint.htm

STATEMENTS TO MAKE AND QUESTIONS TO ASK AT THE BEGINNING OF THE SESSION:

Read each statement, making sure to pause after each one so that the interpreter may interpret.

1. We are going to communicate through an interpreter who will be helping us by telephone.
2. The interpreter will interpret everything you say into English and everything I [we] say into _____ (client's language).
3. The interpreter's only job is to interpret what each of us says.
4. If you do not understand something, ask me, not the interpreter. Please talk directly to me, not to the interpreter.
5. If you have a long question or a long answer, please pause frequently so that the interpreter can interpret everything accurately.
6. Please speak loudly and pronounce your words clearly so that the interpreter can hear you easily.
7. It may take longer to say everything you need to say through an interpreter. Please say everything you need to say.
8. If you have any difficulty hearing the interpreter or understanding me during this conversation, please tell me.
9. Are you able to hear and understand the interpreter?

Next, make sure that the interpreter is ready to proceed.

Madam/Mister interpreter, are you ready to proceed? Are you hearing and understanding everyone adequately?

HELPFUL HITS FOR SUCCESS – TELEPHONE INTERPRETING

Facilitate Compliance with the Interpreter's Code of Professional Conduct by:

1. Speaking directly to the parties through the interpreter, avoiding such phrases as "Tell him....," "Ask him...," "Does he....," etc. Interpreters are required to be the voice of the speaker and are not allowed to rephrase or paraphrase.
2. Providing the interpreter with all the relevant materials and exhibits. If none, provide the interpreter with names, case numbers, and other information ahead of time in writing.
3. Remembering that the interpreter is obligated to interpret everything that is said during the event, whether or not it is directed to the linguistic minority party or is considered essential or even important. Likewise, whatever the linguistic minority party says must be interpreted even when the presiding official may have understood it.
4. Ensuring that participants speak one at a time and at a moderate rate of speech. An English word may require a lengthy phrase or sentence in the other language.
5. Ensuring that all parties honor interpreter's requests for repetition and clarification.

Help Ensure that the Interpreter Can Hear Everything by:

1. Taking whatever steps may be necessary to see that all parties speak up so that they can be easily heard and understood by the interpreter.
2. Being alert to frequent requests for repetition or clarification as this may indicate that there is a problem with audibility.
3. Taking extra care to ensure that the room is free of noise.
4. Requiring that parties enunciate clearly and avoid mumbling.

Be the Interpreter's Eyes by:

1. Informing the interpreter of the names and roles of all participants.
2. Giving the interpreter enough information to understand what is happening in the room when there are interruptions, significant non-verbal activity, or long periods of silence.

Control the Flow of Communication by Ensuring that:

1. Everyone keeps statements at a moderate length, neither too long nor too short. Pauses should be made at the end of sentences or at logical breaks in thought.
2. Ensure that speakers pause to allow for interpretation before responding to one another.
3. Only one person speaks at a time.

Speaking to Your Deaf Client by Phone

Washington State Department of Social and Health Services

Office of the Deaf and Hard of Hearing

Found at: <http://dshs.wa.gov/odhh/Telecommunications/Relay/Default.shtml>

Telecommunication Relay Services**What is Washington Relay?**

Telecommunication Relay Services in Washington State is also known as Washington Relay which is a free service provided by the Washington State Office of the Deaf and Hard of Hearing (ODHH) ensuring equal communication access to the telephone service for people who are deaf, deaf-blind, hard of hearing and speech disabled. This service allows hearing callers to communicate with deaf, hard of hearing, deaf-blind and speech disabled relay users and vice versa through specially trained relay operators.

Calls can be made to anywhere in the world, 24 hours a day, 365 days a year with no restrictions on the number, length, or type of calls. All calls are strictly confidential and no records of any conversations are maintained.

How does Washington Relay work?

Anyone wishing to use Washington Relay simply dials 711 to connect with a relay operator. The relay operator will dial the requested number and relay the conversation between the two callers. Either a person with a hearing loss or speech disability with specialized telecommunication equipment or a person using a standard phone may initiate a call through Washington Relay by dialing the relay number 711 or the designated 10 digit number. After dialing Washington Relay, the person initiating the call gives the desired phone number to the Washington Relay Operator, who then dials that number using another phone line. The Washington Relay Operator types the standard phone user's spoken words to the person using specialized telecommunication equipment and voices the specialized telecommunication equipment user's text messages.

TRS - Voice feature 7-1-1 or 1-800-833-6384

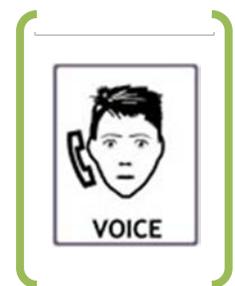
Standard (voice) telephone users can easily initiate calls to communicate with deaf, hard of hearing, deaf-blind and speech-disabled relay users. The relay operator types the standard telephone user's spoken words to the person using specialized telecommunication equipment and voices the relay user's text messages.

711 or 1-800-833-6384 is the statewide telephone relay number that connects standard (voice) telephone users with deaf, deaf-blind, hard of hearing, and/or speech-disabled relay users who use specialized telecommunication equipment. Relay users can simply dial 711 to connect with Washington Relay. This allows easier access, particularly for less experienced relay users such as businesses, children, or friends and family members of individuals using specialized telecommunication equipment.

Occasionally, people who try to place relay calls from a corporate office or hotel room using the 711 number may experience difficulties. This may be because the number has not been programmed into the internal telephone system (e.g. PBX or Centrex). Contact your office administrator or local telephone service provider to ensure that the 711 service is available.

Instructions

- Dial the voice number, 1-800-833-6384 or 7-1-1. (Dialing the 800 number is preferred because the service would be answered by voice first, whereas dialing the 7-1-1 number would be answered via TTY first, unless your telephone number has been branded by the customer service for the system to automatically recognize your telephone number as a voice caller).
- You will hear the relay operator answer "WA RELAY OPR 9136 (F) NUMBER CALLING PLEASE? GO AHEAD." 9136 is a relay operator identification number, as each relay operator has his/her own identification number which is rotated on a scheduled basis.
- Give the relay operator the area code and telephone number of the party you wish to call. If there are any further instructions, you may give that to the relay operator as well.
- The relay operator will process your call, relaying exactly what the specialized telecommunication equipment user is saying or typing to you, as well as exactly what you are saying to the specialized telecommunication equipment user. Be sure to talk directly to the specialized telecommunication equipment user, while avoiding "tell him/her..." Say "GO AHEAD" at the end of each response you make, and you will hear the same from the specialized telecommunication equipment user. "GO AHEAD" means you've completed your response, indicating that it's the specialized telecommunication equipment user's turn to respond, and vice versa.



Video Relay Service (VRS) and Internet-Protocol Relay (IP-Relay)

Video Relay Service (VRS) is an exciting new supplement to the traditional telecommunication relay service. This service provides American Sign Language (ASL) users with an attractive alternative that offers them the opportunity to communicate by video conferencing, using their native language, which may be preferred over the traditional telecommunication relay service. Benefits of using VRS:

- Enable the ASL user to communicate in his/her native language.
- Vastly increased communication speed.
- Enhance communication, with use of facial expression and body language cues.

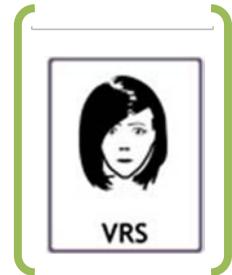
- Remove communication barriers for slow typists and/or exclusive ASL users.
- Able to make interruptions.
- Able to work efficiently with automated telephone transfer systems.
- Provide functional equivalency of making phone calls.

TRS - Internet Protocol (IP) Relay

Internet protocol (IP) based relay service is available from several IP Relay providers using your computer or mobile device connected to the internet to access IP Relay services. Some IP Relay services are also available on AOL Instant Messaging (AIM).

Benefits of using IP Relay:

- You can access IP Relay Services from work, home, libraries, online cafes and anywhere with computer/internet access. There is no need for specialized telecommunications equipment.
- No long distance charges for making calls. In other words, all calls are FREE! No international calls are allowed.
- You can make calls with full confidentiality. There are security measures to ensure that all of your calls are made in complete privacy.
- You can make two-line VCO calls with IP Relay Services! How does it work?
 - Put in your home number for the relay operator to call back to you. Your phone line must have a three-way conference calling capability.
 - Upon receiving the call from the relay operator, connect your outbound party.
 - The relay operator will type on your internet browser screen, while your outbound party is speaking.
- Works with dial-up connections! You do not need a high speed internet access (e.g. DSL or cable modem) to use IP Relay Services.



Relay Service Providers List

To [view a list with contact information](#) of approved Telecommunication Relay Service (TRS), Video Relay Services (VRS) & internet-based providers certified by the Federal Communications Commission (FCC).

Internet Protocol Relay Fraud

Washington Relay offers information how businesses can protect themselves from fraudulent activities by scammers who take advantage of internet protocol (IP) relay services. For more information about [IP Relay Fraud](#).

Disclaimer: Internet-based relay services including VRS and IP-Relay are not administered or funded by the Washington State DSHS / ODHH. The Federal Communication Commission provides oversight and funding.

APPENDIX N

Interpreter Case – Delayed or Rescheduled Hearing Form

Interpreter Case - Delayed or Rescheduled Hearing

Oromo

1. Nama afaan hiiku waan eegaa jirruuf dhageettiin dhimma keetii dhabbaseera. Amma waan tahu sitti beeksifnutti adaraa addanuma turi.
2. Namni affaan hiiku waan dhabameef dhimma kee har'a dhaga'uu hin dandeenye. Gara fuula duraatti guyyaa fi yeroo dhageettiin dhimma keetii itti tahu karaa xalayaa sitti beeksifna.
3. Namni affaan hiiku waan dhabameef dhimma kee har'a dhaga'uu hin dandeenye. Dhageettiin dhimma keetii deebi'ee baallamameera. Mana murtiitti deebi'uu qabda gaafa _____ (baatii) _____ (guyyaa) _____ (bara) sa'aa _____ tti.

Russian

1. Слушание по Вашему делу задерживается, потому что мы ждем переводчика. Пожалуйста, оставайтесь здесь, пока не получите дополнительных указаний.
2. Слушания по Вашему делу сегодня не будет в связи с отсутствием переводчика. Мы направим Вам почтой уведомление о дате и времени следующего слушания по Вашему делу.
3. Слушания по Вашему делу сегодня не будет в связи с отсутствием переводчика. Слушание Вашего дела перенесено. Вам следует вернуться в суд _____ (месяц) _____ (день) _____ (год) к _____ (время).

Serbo-Croatian

1. Vaša sudska rasprava je odgođena zbog toga što čekamo na prevodioca. Molimo Vas da pričekate do daljnjea.
2. Vaša sudska rasprava se neće održati danas zbog nedostatka prevodioca. Mi ćemo Vam poslati datum i vrijeme Vaše slijedeće sudske rasprave poštom.
3. Vaša sudska rasprava se neće održati danas zbog nedostatka prevodioca. Vaša sudska rasprava ja zakazana za drugo vrijeme. Vi se morate vratiti na sud _____ (mjesec) _____ (dan) _____ (godina) u _____ (vrijeme).

Somali

1. Dhegaysigaaga waxaa dib loogu dhigay inta aan ka sugayno turjubaanka. Fadlan meeshaan sii joog illaa inta ay arrimo kale ka soo kordhaan.
2. Dhegaysigaaga waa la baajiyay maanta waxaana sabab u ah in la la'yahay qof wax turjuma. Waxaan boostada kuugu soo diraynaa taariikhda iyo wakhtiga dambe ee la qaban doono dhegaysigaaga.
3. Dhegaysigaaga waa la baajiyay waxaana sabab u ah in la la'yahay qof wax turjuma. Wakhti kale ayaa dhegaysigaaga loo qabtay. Waxaa shardi ah in aad maxkadda ku soo laabatid _____ (bisha) _____ (maalinta) _____ (sanadka) _____ (wakhtiga).

Spanish

1. Su audiencia está retrasada; estamos esperando al intérprete. Permanezca aquí hasta que reciba nuevas instrucciones.
2. Su audiencia no se llevará a cabo hoy; no hay un intérprete disponible. Le enviaremos por correo la fecha y la hora de su próxima audiencia.
3. Su audiencia no se llevará a cabo hoy; no hay un intérprete disponible. Su audiencia ha sido programada para otra fecha. Debe regresar al tribunal en _____ (mes) _____ (día) de _____ (año) a la(s) _____ (hora).

Vietnamese

1. Buổi điều trần của quý vị bị trì hoãn vì chúng tôi đang chờ thông dịch viên. Xin vui lòng ở lại đây cho tới khi quý vị được chỉ dẫn thêm.
2. Hôm nay buổi điều trần của quý vị sẽ không diễn ra vì không có thông dịch viên. Chúng tôi sẽ gửi thư thông báo qua đường bưu điện về ngày giờ của buổi điều trần tiếp theo.
3. Hôm nay buổi điều trần của quý vị sẽ không diễn ra vì không có thông dịch viên. Buổi điều trần của quý vị đã được dời sang ngày giờ khác. Quý vị phải trở lại tòa án vào _____ (tháng) _____ (ngày) _____ (năm) vào lúc _____ (giờ).