

Superior Court of California, County of San Mateo

Limited English Proficiency (LEP) Plan

This Limited English Proficiency Plan received its guidance from the Judicial Council of California, and was a collaborative effort by staff from various divisions in the Superior Court of California, County of San Mateo. The intent of this plan is to provide its Limited English Proficiency (LEP) customers with access, direction and goals to court staff in order to provide timely and reasonable language assistance.

This plan will be updated regularly.

I. Legal Basis and Purpose

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

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

II. Needs Assessment

A. Statewide

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

According to the Judicial Council of California, Court Interpreter Data Collection System (CIDCS), which aggregates court interpreter usage data received from the California trial courts, the most frequently used languages for interpreters in California courts currently utilized are (in descending order of frequency):

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

B. Superior Court of California, County of San Mateo

The Superior Court of California, County of San Mateo will make every effort to provide services to all LEP persons. However, the following list shows the foreign languages that are most frequently used in this court's geographic area. Those languages are:

1. Spanish
2. Cantonese
3. Tagalog
4. Mandarin

This information is based on data collected by the court on a month-to-month basis according to Criminal Justice Information System (CJIS) reports.

III. Language Assistance Resources

A. Interpreters Used in the Courtroom

1. Providing Interpreters in the Courtroom

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

- For litigants and witnesses in criminal hearings;
- For litigants and witnesses in juvenile hearings;
- For litigants and witnesses in probate mental health hearings;
- For litigants and witnesses in hearings involving domestic violence and elder abuse, temporary restraining orders, family law and child support cases, to the extent that grant funding continues to be provided;
- For litigants who need assistance when using family court services, to the extent that grant funding continues to be provided; and,
- For litigants involved in traffic.

The Superior Court of California, County of San Mateo recognizes the significant benefits to both the public and the court of facilitating language access in other civil proceedings. This is done by means of providing a list of available and qualified Interpreters.

2. Determining the Need for an Interpreter in the Courtroom

The Superior Court of California, County of San Mateo may determine whether an LEP court customer needs an interpreter for a court hearing in various ways.

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The need for a court interpreter may be identified prior to a court proceeding by the LEP person or on the LEP person's behalf by counter staff, self-help center staff, family court services, family law facilitator or outside justice partners such as the District Attorney, Private Defender, probation/parole officers, attorneys, court investigators or social workers.

The need for an interpreter also may be made known in the courtroom at the time of the proceeding. The courtroom clerk should use the language identification flash cards to assist in identifying the need for an interpreter when the LEP person is unable to understand the proceedings in English.

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

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

Standard 2.10(d) calls on the court to state its conclusion on the record regarding the need for an interpreter. "The file in the case should be clearly marked and data entered electronically when appropriate by court personnel to ensure that an interpreter will be present when needed in any subsequent proceeding." San Mateo Court stores this information electronically.

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

When an interpreter is unavailable for a case in which the court is not mandated to provide one, the court will refer the litigant to the Interpreter Services Division, which will refer the litigant to

the appropriate resources. The litigant will be responsible for engaging and paying for the requested service.

3. Court Interpreter Qualifications

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

B. Language Services Outside the Courtroom

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

The two most common points of service outside the courtroom are at the court's public counters and self-help center. Bilingual assistance is provided at the public counter by the placement of bilingual staff as is practical. The court also periodically calls on other bilingual staff from elsewhere in the court to assist at a public counter. Similarly, the court's self-help center strives to recruit and employ bilingual staff to provide self-represented litigants with assistance in understanding and completing necessary forms.

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

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

- Court interpreters, to the extent permitted under the active memorandum of understanding or independent interpreter contract;
- Bilingual employees;
- Bilingual volunteers;
- A court Web site with key pages translated into Spanish;
- Language Line services may be available to provide assistance in the clerks' office and at the court's self-help center. The Language Line contract services provides interpretation services via the telephone in over 170 languages; and,
- A court public phone line with key instructions provided in Spanish to request Small Claims services: (650) 261-5015.

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

- Self-help center services that include: bilingual self-help center staff, and volunteers that provide self-help services in Spanish;
- Workshops in Spanish regarding dissolution, etc.;
- Bilingual Spanish speaking child custody recommending counselors for custody and visitation matters;
- Joint workshops between self-help center staff and community service providers serving LEP populations; and,
- Written informational and educational materials and instructions in Spanish.

C. Translated Forms and Documents

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

- Some of these translated forms are available at the court's Web site (www.sanmateocourt.org) for internal use and are available to the public at www.courts.ca.gov/selfhelp-languages.htm as well as at the court's self-help center;
- The court also has access to instructional materials that have been translated by other courts at www.courts.ca.gov/programs-equalaccess.htm.
- The court has translated the following documents into Spanish:

ADR

Family Law ADR brochure

Juvenile Delinquency and Dependency Mediation Evaluation Forms

All Juvenile Delinquency and Dependency Mediation program correspondence

Criminal

Addendum to Advisement, Waiver & Pleas Form – Deft. Under 21 Years of Age (CR73)

Advice of Rights (CR1b)

Advisement (VC 23103, 23152, 23153)

Criminal Change of Plea (CR35a)

Declaration to Obtain Services of Court Appointed Counsel (CR2b)

Domestic Violence Forms

DUI Forms (CR36)

Felony Plea Forms

Ignition Interlock Supplemental Waiver

Misdemeanor Plea Forms

Probation Violation Waiver (CR39a)

Probation Violation Advice of Rights (CR3b)

Temporary Restraining Order Forms
Waiver of Rights for Entry of Plea of Guilty or Nolo Contendere(CR33a)
Waiver of Rights for Entry of Plea (misdem) (CR33 SP)

Family Court Services

Domestic Violence/Restraining Order & Child Custody handout
Guardianship Information Form
Information Sheet
In Person / Online Parent Orientation Presentation
In Person / Online Parent Handbook
Separate Mediation / Support Person Policy
Separate Mediation / Support Person Guidelines & Acknowledgment
Interpreter Information
Interpreter Acknowledgment
Stepparent / Domestic Partner Adoption Worksheet
Minor Marriage Information Packet
New appointment notice
Party information intake slips (for new appointments)

Family Law & Probate

Domestic Violence Information Sheet Day of Court Mediation
Guardianship Information Form

Family Law Facilitator

Dissolution of Marriage/Legal Separation/Nullity forms

FL – 100: Petition-Marriage/Domestic Partnership
FL – 110: Summons; Family Law
FL – 120: Response to Petition-Marriage/Domestic Partnership
FL – 130: Appearance, Stipulations, and Waivers
FL – 144: Stipulation and Waiver of Final Declaration of Disclosure
FL – 160: Property Declaration
FL – 160A: Continuation of Property Declaration

Summary Dissolution Packet and Information

FL – 800: Joint Petition for Summary Dissolution
FL –810: Summary Dissolution Information

Declaration of Disclosure Forms

FL – 140: Declaration of Disclosure
FL – 142: Schedule of Assets and Debts
FL – 141: Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration
FL – 150: Income and Expense Declaration

Establishment of Parental Relationship forms

- FL – 200: Petition to Establish Parental Relations
- FL – 210: Summons; Parentage – Custody and Support
- FL – 220: Response to Petition to Establish Parental Relations

Custody and Support Forms

- FL – 210 Summons; Parentage – Custody and Support
- FL – 260: Petition for Custody and Support
- FL – 270: Response to Petition for Custody and Support

Service (*Bi-lingual*)

- FL – 115: Proof of Service of Summons
- FL – 330: Proof of Service by Personal Service
- FL – 335: Proof of Service by Mail

Additional Forms

- FW-001: Request to Waive Court Fees
- FW-002: Order on Court Fee Waiver
- FL – 2: Notice of ADR Options
- FL – 105: Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)
- FL – 150: Income and Expense Declaration
- FL – 180: Judgement
- FL – 300: Request For Order
- FL – 320: Responsive Declaration to Request For Order

Domestic Violence Restraining Order

- DV – 100: Request for Domestic Violence Restraining Order
- DV – 120: Response to Request for Domestic Violence Restraining Order

Informational Brochures and Fliers

- Tips for Completing Court Forms
- DCSS Meet and Confer Sessions
- Family Law Facilitators Office/Self-Help Center Brochure
- Divorce Workshop Fliers
- Bay Area Legal Aid Domestic Violence Restraining Order Workshop Fliers
- Legal Aid Landlord/Tenant Housing Clinic Fliers
- Rally Visitation Center Brochure
- San Mateo County Department of Child Support Flier
- A Quick Reference Guide to the California Courts Self-help Centers and Family Law Facilitators
- Instructions on What to Do with Your Restraining Order

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Instructions for Filing and Serving the Petition (Dissolution)
Instructions for Filing and Serving the Petition (Non-Dissolution)
Instructions for Filing and Serving the Petition & RFO (Non-Dissolution)
Instructions for Filing and Serving the Response (Dissolution)
Instructions for Filing and Serving the Response (Non-Dissolution)
Instructions for Filing and Serving Documents (RFO)
Instructions for Filing and Serving Documents (Response)
Ex-Parte Instructions
Family Law ADR Program Brochure

Juvenile

Notice of Responsibility for Reimbursement for Court Appointed Counsel on
Dependency Proceedings (JV-11SP)
Financial Declaration-Juvenile Dependency JV-12SP)

Traffic

Advice of Rights (TR-21)
Waiver of Rights for Entry of Plea of Guilty or Nolo 14601.1(A) VC (TR22a)
Waiver of Rights Informal Hearing 40901 (TR-23a)
Waiver of Rights for Entry of Pleas of Guilty or Nolo Contendere (CR-TR-33a)

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

IV. Court Staff and Volunteers

A. Court Bilingual Staff for Language Access

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

- Court interpreters to serve as permanent employees of the court
- Bilingual staff to serve at public counters
- Bilingual staff in the court's self-help centers
- Bilingual staff assists with contacts from LEP individuals, as needed

B. Volunteers for Language Access

The court uses volunteers to assist with language access in the self-help center.

V. Judicial and Staff Training:

The Superior Court of California, County of San Mateo is committed to providing LEP training opportunities for all judicial officers and staff members. Training and learning opportunities

currently offered by the Superior Court of California, County of San Mateo will be expanded or continued as needed. Those opportunities include:

- Diversity Training
- Cultural Competency training
- LEP plan training
- Customer Service Training - specific to using available materials and techniques to facilitate communication with the customer
- Local colleges and institutions offer language classes to employees, with an opportunity to apply for tuition reimbursement
- Statewide conferences on language access or conferences that include sessions dedicated to topics on language access
- New employee orientation training
- Judicial officer orientation on the use of court interpreters and language competency

VI. Public Outreach and Education

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

- Bilingual Flyers that announce the availability of self-help center services and public workshops
- Workshops conducted in English and Spanish
- Instruction sheets and brochures in Spanish on a variety of legal issues
- Collaboration with community based agencies, legal service providers, and county agencies to provide access to legal resources during Community Law Night to further assist our LEP constituency
- As part of the Strategic Planning process, public forums were held with interpreters available for our LEP constituency
- Multilingual staff that can assist our LEP constituency by providing information and assistance

VII. Public Notification and Evaluation of LEP Plan

A. LEP Plan Approval and Notification

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

B. Annual Evaluation of the LEP Plan

The Superior Court of California, County of San Mateo will routinely assess whether changes to the LEP plan are needed. The plan may be changed or updated at any time but reviewed not less frequently than one year. The evaluation will include identification of any problem areas and development of corrective action strategies.

Elements of the evaluation will include:

- Assessment of current language needs to determine if additional services or translated materials should be provided;
- Assessment of whether court staff adequately understand LEP policies and procedures and how to carry them out;
- Review of feedback from court employee training sessions.

C. Trial Court LEP Plan Coordinator:

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E. JUDICIAL COUNCIL LEP Plan Coordinator:

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F. LEP Plan Effective date: July 1, 2015 _____

G. Approved by:

Honorable John L. Grandsaert
Presiding Judge: _____ Date: _____

John Fitton
Court Executive Officer: _____ Date: _____

Attachment A to Trial Court Limited English Proficiency Plan

Citations on the Use and Payment of Interpreters in Court Proceedings

Policies for providing interpreters in court proceedings are based on the following Constitutional provisions, case law, and statutory mandates:

- Article 1, section 14 of the California Constitution provides that a “person unable to understand English who is charged with a crime has the right to an interpreter throughout the proceedings.” There is no corresponding right in civil proceedings. *Jara v. Municipal Court* (1978) 21 Cal.3d 181 held that non-English-speaking indigent civil litigants do not have a right to a court interpreter appointed at public expense. However, the court does have the inherent right to waive filing fees if justice so requires.
- *Jara* let stand an earlier opinion, *Gardiana v. Small Claims Court* (1976) 59 Cal.App.3d 412, which held that in small claims proceedings, the court has a statutory duty to appoint an interpreter free of charge if it finds the litigant unable to speak or understand English. *Jara* reasoned that because attorneys are not permitted in small claims proceedings; non-English-speaking small claims litigants without an interpreter are “effectively barred from access to the small claims proceedings.” (*Jara*, 21 Cal.3d 185.) (See also the two bulleted items below regarding interpreters in small claims matters.)
- Witnesses with limited English proficiency must also be provided with an interpreter. Under Evidence Code section 752, the court must appoint an interpreter whenever “a witness is incapable of understanding the English language or is incapable of expressing himself or herself in the English language so as to be understood directly by counsel, court, and jury. . . .” Appointment of a translator is also required whenever “the written characters in a writing offered in evidence are incapable of being deciphered or understood directly.” (Evid. Code, § 753.)
- In small claims proceedings, if the court determines that a litigant does not speak or understand English sufficiently to comprehend the proceedings or give testimony and needs assistance in doing so, the court may permit another individual (other than an attorney) to assist that party. (Code Civ. Proc., § 116.550(a).) If a competent interpreter is not available at the first hearing of the case, the small claims court shall postpone the hearing one time only to allow the party the opportunity to obtain another individual to assist that party. Any additional continuances shall be at the court’s discretion. (Code Civ. Proc., § 116.550(b)). Rule 3.61 (5) of the California Rules of Court provides that any costs for a court-appointed interpreter in a small claims action must be waived if an application to proceed in forma pauperis is granted.

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