

1 **Superior Court of Santa Barbara County**

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

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6 **I. Legal Basis and Purpose**

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8 This document serves as the plan for the Superior Court of Santa Barbara County to provide to
9 persons with limited English proficiency (LEP) services that are in compliance with Title VI of
10 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. §
11 42.101–42.112). The purpose of this plan is to provide a framework for the provision of timely
12 and reasonable language assistance to LEP persons who come in contact with the Superior Court
13 of Santa Barbara County.

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

19
20 **II. Needs Assessment**

21 **A. Statewide**

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

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

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

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38 **B. Superior Court of Santa Barbara County**

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40 The Superior Court of Santa Barbara County takes the needs of LEP persons seriously and
41 attempts to make every reasonable effort to provide meaningful access to them. According to
42 United States Census Bureau data for 2000, in Santa Barbara County, 122,472 people or 32.8
43 percent of the people five years of age and older over speak a language other than English. Of
44 these, 61,584 people reported speaking English less than very well, with 54,041 speaking

45 Spanish, 2,284 speaking an indo-European language, 4,776 speaking an Asian or Pacific Island
46 language and 483 speaking something else.

47
48

49 **III. Language Assistance Resources**

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

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

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

- 57 • For litigants and witnesses in criminal hearings;
- 58 • For litigants and witnesses in juvenile hearings;
- 59 • For litigants and witnesses in hearings involving domestic violence and elder abuse,
60 family law and child support cases, to the extent that funding is provided; and,
- 61 • For litigants who need assistance when using family court services, to the extent that
62 funding is provided.

63

64 Responsibility for the cost for spoken-language interpreters for litigants and witnesses in other
65 civil proceedings will be determined at the discretion of the officiating judge. Additionally,
66 courts may use interpreters who are providing mandated interpreting services for issues such as
67 criminal or juvenile cases for incidental use in civil courtrooms. The Superior Court of Santa
68 Barbara County recognizes the significant benefits to both the public and the court by providing
69 interpreters in civil cases and will attempt whenever possible to provide such interpreters through
70 incidental use.

71

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

73

74 The Superior Court of Santa Barbara County may determine whether an LEP court customer
75 needs an interpreter for a court hearing in various ways.

76

77 The need for a court interpreter may be identified prior to a court proceeding by the LEP person
78 or on the LEP person's behalf by outside justice partners.

79

80 The need for an interpreter may also be made known in the courtroom at the time of the
81 proceeding. The judge may determine that it is appropriate to provide an interpreter for a court
82 matter. California's Standards of Judicial Administration offer instruction to judges for
83 determining whether an interpreter is needed. Section 2.10 provides that an "interpreter is needed
84 if, after an examination of the party or a witness, the court concludes that: (1) the party cannot
85 understand and speak English well enough to participate fully in the proceedings and to assist

86 counsel, or (2) the witness cannot speak English so as to be understood directly by counsel,
87 court, and jury.” The court is directed to examine the party or witness “on the record to
88 determine whether an interpreter is needed if: (1) a party or counsel requests such examination or
89 (2) it appears to the court that the person may not understand or speak English well enough to
90 participate fully in the proceedings.”

91
92 To determine if an interpreter is needed, standard 2.10(c) provides that “the court should
93 normally ask questions on the following: (1) identification (for example: name, address, birth
94 date, age, place of birth); (2) active vocabulary in vernacular English (for example: ‘How did
95 you come to the court today?’ ‘What kind of work do you do?’ ‘Where did you go to school?’
96 ‘What was the highest grade you completed?’ ‘Describe what you see in the courtroom.’ ‘What
97 have you eaten today?’ Questions should be phrased to avoid ‘yes’ or ‘no’ replies; (3) the court
98 proceedings (for example: the nature of the charge or the type of case before the court), the
99 purpose of the proceedings and function of the court, the rights of a party or criminal defendant,
100 and the responsibilities of a witness.”

101
102 Standard 2.10(d) calls on the court to state its conclusion on the record regarding the need for an
103 interpreter. “The file in the case should be clearly marked and data entered electronically when
104 appropriate by court personnel to ensure that an interpreter will be present when needed in any
105 subsequent proceeding.”

106
107 Many people who need an interpreter will not request one because they do not realize that
108 interpreters are available or because they do not recognize the level of English proficiency or
109 communication skills needed to understand the court proceeding. The court does not have
110 funding to provide interpreters for non-mandated proceedings.

111
112 In a case where the court is mandated to provide an interpreter, but one is not available at the
113 time of the proceeding, even after the court has made all reasonable efforts to locate one, as
114 outlined in this plan, the case will be postponed and continued on a date when an interpreter can
115 be provided. The AOC will be developing a generic continuance form that will be translated into
116 several frequently used languages and will be providing them to the trial courts for their use.

117
118 When an interpreter is unavailable for a case in which the court is not mandated to provide one,
119 the court determines and follows the best option that is appropriate for the situation, including:
120

- Appointing an individual to act as an interpreter for the proceeding;
- Continuing the proceeding and informing the party that they must provide an interpreter
122 at their own expense.

123
124

125 **3. Court Interpreter Qualifications**

126
127 The Superior Court of Santa Barbara County hires interpreters for courtroom hearings in
128 compliance with the rules and policies set forth by Government Code section 68561 and
129 California Rules of Court, rule 2.893. The AOC maintains a statewide roster of certified and

130 registered interpreters who may work in the courts. This roster is available to court staff and the
131 public on the Internet at www.courtinfo.ca.gov/programs/courtinterpreters/master.htm.

132
133 When the court has made a “due diligence” effort to find a certified or registered court interpreter
134 and none is available, the court then seeks a noncertified or nonregistered court interpreter, in
135 accordance with the governing local labor agreement. Whenever a noncertified interpreter is
136 used in the courtroom, to either provisionally qualify the interpreter or find cause to permit him
137 or her to interpret the proceeding, judges must, pursuant to rule 2.893, inquire into the
138 interpreter’s skills, professional experience, and potential conflicts of interest. A provisionally
139 qualified interpreter is one who, upon findings prescribed in the rule, is designated by the judge
140 as eligible to interpret in a criminal or juvenile delinquency proceeding for a period of six
141 months.

142 143 **B. Language Services Outside the Courtroom**

144
145 The Superior Court of Santa Barbara County is also responsible for taking reasonable steps to
146 ensure that LEP individuals have meaningful access to services outside the courtroom. This is
147 perhaps the most challenging situation facing court staff, because in most situations they are
148 charged with assisting LEP individuals without an interpreter present. LEP individuals may
149 come in contact with court personnel via the phone, the public counter, or other means.

150
151 To facilitate communication between LEP individuals and court staff, the Superior Court of
152 Santa Barbara County intends to use, or uses the following resources to the degree that resources
153 are available:

- 154 • Court interpreters, to the extent permitted under the active memorandum of
155 understanding or independent interpreter contract;
- 156 • Bilingual employees;
- 157 • “I Speak” cards, to identify the individual’s primary language;
- 158 • Multilingual signage is being developed by the AOC and a working group of trial courts.
159 Once available, signage with applicable messages for this court will be posted in the
160 court in: Spanish, Mixteco, Vietnamese.
- 161 • Language Line services, which are available to provide assistance in the courtroom. The
162 Language Line contract services provides interpretation services via the telephone in over
163 170 languages; and,
- 164 • Bilingual family court services mediators for custody and visitation matters.

165 166 167 **C. Translated Forms and Documents**

168
169 The California courts understand the importance of translating forms and documents so that LEP
170 individuals have greater access to the courts’ services. The Superior Court of Santa Barbara
171 County and the public have access to Judicial Council forms and instructional materials
172 translated into commonly used languages at www.courtinfo.ca.gov/selfhelp/languages. The court
173 also has access to instructional materials that have been translated by other courts at

174 www.courtinfo.ca.gov/programs/equalaccess/trans.htm.

175

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

178

179 **IV. Bilingual Court Staff**

180 The Superior Court of Santa Barbara County is an equal opportunity employer and recruits and
181 hires bilingual staff to serve its LEP constituents whenever possible. The court also looks for
182 opportunities to include bilingual skills in any contractor that provides self-help assistance.

183

184 **V. Judicial and Staff Training:**

185

186 The Superior Court of Santa Barbara County is committed to providing LEP training
187 opportunities for all judicial officers and staff members. Training and learning opportunities
188 currently offered by the Superior Court of Santa Barbara County will be expanded or continued
189 as needed. Those opportunities may include:

190

- 191 • Diversity Training;
- 192 • Cultural competency training;
- 193 • LEP plan training;
- 194 • Statewide conferences on language access or conferences that include sessions dedicated
195 to topics on language access, when offered;
- 196 • New employee orientation training; and,
- 197 • Judicial officer orientation on the use of court interpreters and language competency.

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

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

203 The Superior Court of Santa Barbara County's LEP plan is subject to approval by the presiding
204 judge and court executive officer. Upon approval, a copy will be forwarded to the AOC, LEP
205 Coordinator. Any revisions to the plan will be submitted to the presiding judge and court
206 executive officer for approval, and then forwarded to the AOC. Copies of Superior Court of
207 Santa Barbara County's LEP plan will be provided to the public on request. In addition, the court
208 will post this plan on its public Web site, and the AOC will post a link to it on the Judicial
209 Council's public Web site at www.courtinfo.ca.gov.

210

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

212 The Superior Court of Santa Barbara County will routinely assess whether changes to the LEP
213 plan are needed. The plan may be changed or updated at any time but reviewed not less
frequently than once a year.

214
215 Each year court staff will review and consider the effectiveness of the court's LEP plan and
216 update it as necessary.

217
218 In reviewing the plan the following points will be considered:

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

224
225 **C. Trial Court LEP Plan Coordinator**

226 **Flota Pritchard**
227 **Judicial Services Supervisor, Sr**
228 **Santa Barbara County Superior Court**
229 **1100 Anacapa Street**
230 **Santa Barbara, CA 93101**
231 **(805) 882-4645, fpritchard@sbcourts.org**

232
233 **D. AOC LEP Plan Coordinator:**

234 Mark Garcia
235 Senior Court Services Analyst
236 Equal Access Program
237 Administrative Office of the Courts
238 455 Golden Gate Avenue
239 San Francisco, CA 94102-3688
240 (415) 865-4367, mark.garcia@jud.ca.gov

241
242 **E. LEP Plan Effective date:** *1-12-10*

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244
245 **F. Approved by:**

246
247 Presiding Judge: *Paul A. Gan* Date: *1/12/10*

248
249 Court Executive Officer: *Suzanne M. Blain* Date: *1/12/10*

Attachment A to Trial Court Limited English Proficiency Plan

Citations on the Use and Payment of Interpreters in Court Proceedings

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

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

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