SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED
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LIMITED ENGLISH PROFICIENCY (LEP) PLAN

I. LEGAL BASIS AND PURPOSE

This document serves as the plan for the Superior Court of California, County of Merced to provide to persons with Limited English Proficiency (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 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 Merced.

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 *2020 Language Need and Interpreter Use Study,* a report commissioned by the Judicial Council of California (JCC) for the Legislature, the most frequently used languages for interpreters in California courts were (in descending order of frequency):

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

B. SUPERIOR COURT OF CALIFORNIA, COUNTY OF MERCED

The Superior Court of California, County of Merced 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.

1. Spanish
2. Hmong
3. Punjabi
4. Lao
5. Mandarin

This information is based on interpreter request data collected by Merced Superior Court for the fiscal year of 2021.

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. In the Superior Court of California, County of Merced, 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 hearings involving domestic violence and elder abuse;
- For litigants and witnesses in family law and child support cases, within existing funding restrictions and staff availability; and
- For litigants who need assistance when using family court services, within existing funding restrictions and staff availability.

Additionally, the Court may use interpreters who are providing mandated interpreting services for issues such as criminal or juvenile cases for incidental use in civil courtrooms when available. The Superior Court of California, County of Merced recognizes the significant benefits to both the public and the court by providing interpreters in civil cases and will attempt, whenever possible, to provide such interpreters through incidental use.

Pursuant to Standing Order #2017-02, the Court has the discretion to charge the party and/or attorney all or party of the financial expense of the interpreter(s) when interpreters are canceled because the party or attorney has not provided as least 24 hours advance notice that the interpreter(s) is not required as scheduled.

2. Determining the Need for an Interpreter in the Courtroom

The Superior Court of California, County of Merced may determine whether an LEP court customer needs an interpreter for a court hearing in various ways.
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 court staff, attorneys, social workers, or outside justice partners. The Superior Court of California, County of Merced will post signs in the five most frequently used languages (Spanish, Hmong, Punjabi, Lao, and Mandarin) informing parties they can inquire with any clerk's office regarding the availability of free language services. The Superior Court of California, County of Merced will display these signs at the following locations:

- In each Clerk's office;
- In the Self-Help Center; and
- At the entrance of each court facility.

The need for an interpreter may also be made known in the courtroom, at the time of the proceeding. The judicial officer may also 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."

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 will provide

interpreters for non-mandated proceedings within existing funding restrictions and staff availability.

In a case where the court is mandated to provide an interpreter, but one is not available at the time of the proceeding, even after the court has made all reasonable efforts to locate one, as previously outlined in this plan, the case will be postponed and continued to a date when an interpreter can be provided.

When an interpreter is unavailable for a case in which the court is not mandated to provide one, the court may take the following actions:

- Continue the hearing to a day when the calendar shows incidental availability of an interpreter for that language; or
- Appoint a bilingual family member, friend, or other support persons to act as an interpreter for the party.

3. Court Interpreter Qualifications

The Superior Court of California, County of Merced 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 JCC maintains a statewide Master List of certified and registered interpreters who may work in the courts. The Master List is available to court staff and the public on the Internet at: *https://www.courts.ca.gov/35273.htm.*

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

B. Language Services Outside the Courtroom

The Superior Court of California, County of Merced 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 three most common points of service outside the courtroom are at the court's public counters, via phone, and at Self-Help Centers. Bilingual assistance is provided at the public counter by the placement of bilingual staff as is practical.

Providing language services outside the courtroom entails both daily communications and interactions between court staff and LEP individuals to provide accessibility of 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 Merced 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;

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

- Instructional materials in various languages; and
- The option to translate all contents on the court's website into several languages.

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 Merced currently uses Judicial Council forms and instructional materials translated into commonly used languages.

- Translated Judicial Council forms are available to the public at http://www/courts.ca.gov/forms.htm.
- Instructional materials translated by other courts are available at http://www.courts.ca.gov/partners/53.htm.

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

Court Staff Recruitment

A. Recruitment of Bilingual Staff for Language Access

The Superior Court of California, County of Merced 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; and
- Bilingual staff to serve at public counters.

IV. TRAINING

The Superior Court of California, County of Merced encourages all staff to participate in LEP training opportunities. Training and learning opportunities are currently offered by the Judicial Council of California, Center for Judicial Education and Research and are made available to all staff.

V. PUBLIC NOTIFICATION AND EVALUATION OF LEP PLAN

A. LEP PLAN APPROVAL AND NOTIFICATION

The Superior Court of California, County of Merced's LEP plan is subject to approval by the Presiding Judge and Court Executive Officer. Upon approval, a copy will be forwarded to the JCC 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 JCC. Copies of Superior Court of California, County of Merced's LEP plan will be provided to the public on request. In addition, the court will post this plan on its public website at http://www.mercedcourt.org

B. ANNUAL EVALUATION OF THE LEP PLAN

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

Each year the court will review the effectiveness of the court's LEP plan and update it as necessary. The evaluation will include identification of any problem areas and development of corrective action strategies. Elements of the evaluation will include:

- Number of LEP persons requesting court interpreters and language assistance;
- Assessment of current language needs to determine if additional services or translated materials should be provided;
- Solicitation and review of feedback from LEP communities within the county;
- Assessment of whether court staff adequately understand LEP policies and procedures and how to carry them out;
- Review and feedback from court employee training sessions; and
- Customer satisfaction feedback.

C. TRIAL COURT LEP PLAN COORDINATOR:

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E. LEP PLAN EFFECTIVE DATE: MAY 2, 2022

F. APPROVED BY:

Presiding Judge: Mark V. Bacciarini Date: 05/02/2022
Hon. Mark Bacciarini

Court Executive Officer: Amanda Toste Date: 5/2/2022
Amanda Toste