

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

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Date: July 5, 2011

To: Members, Board Committee on Stakeholder Relations

From: Mary Lavery Flynn, Director, Office of Legal Services
Frank Monti, Senior Administrative Assistant, Office of Legal Services

Re: Language Access in the Courts: State and National Developments

Introduction

This agenda item is intended to make members of this Board Committee aware of efforts to improve language access in court systems, both statewide and national.

California Language Access Developments:

In 2005, the California Commission on Access to Justice issued its report, [Language Barriers to Justice in California](#), which described how inadequate language access for Persons with Limited English Proficiency (LEPs) was impeding access to and the quality of justice in the court system, thus damaging its integrity.

The report included several recommendations designed to improve language access within the California Courts including ways to expand the availability of qualified interpreters and translated court documents and procedures to help court staff and judges handle the high volume of cases involving LEP litigants.

Unfortunately, with severely limited resources, language barriers in the courts continue to limit access to justice. However, in California there have been significant improvements in language access for LEP litigants because there are more services available, including at the Self-Help Centers in every county and on the AOC website, much of which is available in Spanish and other key languages spoken by a high percentage of Californians. In addition, dedicated statewide funds provide important branch wide resources to increase access for limited English proficient Californians. [LawHelpCalifornia](#) is a website for those seeking legal assistance for a broad range of issue and it has a vast amount of information available in English, Spanish, and many other languages used throughout the state. Many more court interpreters qualified in California's most common languages are now full time employees, giving the courts more flexibility in meeting litigants' needs for interpreters and reducing the complete dependence on contractor interpreters which was often more expensive, time

consuming, and cumbersome. Regular employment also offered more stable employment for interpreters, making it a more desirable career choice. However, many courts still do use contract interpreters to cover some of the 220 languages spoken in California.

National Developments:

The U.S. Department of Justice issued a directive last year, [the Department of Justice Letter to State Courts](#), containing language access standards not yet achieved by our state's court system. The Judicial Council is involved with efforts to improve language access to be in compliance with this directive, although compliance is extremely challenging given the budget crisis and significant reductions in the judiciary's budget.

Another national development regarding language access is the American Bar Association's new [Language Access Standards Project](#). Recently, the ABA Standing Committee on Legal Aid and Indigent Defendants and several other ABA groups, embarked upon this Language Access Standards Project to create standards for the provision of language access in state courts. Through these standards, the ABA seeks to establish guidelines which are practical, universal, and effective at creating access to state courts for individuals with limited English proficiency.

The Project has issued a [Draft ABA Standards for Language Access in Courts Report](#). The Standards and extensive commentary provide guidance to courts in designing, implementing, and enforcing a comprehensive system of language access services that is suited to the needs of the communities they serve.

A system of language access services is required as a fundamental principle of law, fairness, and access to justice, and to promote the integrity and accuracy of judicial proceedings, so that persons needing to access the court are able to do so in a language they understand, and are able to be understood by the court. The Standards were developed as a joint project of 5 entities, and with the guidance of a large advisory group comprised of judges, court administrators, advocates and others.

There are ten standards recommended in the draft document:

1. **FUNDAMENTAL PRINCIPLES:** Fairness, access to justice, integrity and accuracy of judicial proceedings.
2. **MEANINGFUL ACCESS:** Language access services for Persons with Limited English Proficiency (LEPs).
3. **IDENTIFYING LEP PERSONS:** Gathering comprehensive language access data.
4. **INTERPRETER SERVICES IN LEGAL PROCEEDINGS:** Competent interpreters in all legal proceedings.
5. **LANGUAGE ACCESS IN COURT SERVICES:** Language access for the full range of court services.
6. **LANGUAGE ACCESS IN COURT-MANDATED AND OFFERED SERVICES:** Translated signs, brochures documents, audio and video recordings, bilingual staff, and interpreters.

7. TRANSLATION: Court systems to prioritize the translation of written documents.
8. QUALIFICATIONS OF LANGUAGE ACCESS PROVIDERS: Courts should assure competency of translators and interpreters.
9. TRAINING: Courts should ensure that all court personnel receive training on language access issues and implementation.
10. STATE-WIDE COORDINATION: Court systems should establish a Language Access Office to coordinate and facilitate the provision of language access services.

Bonnie Hough, Project Manager, Administrative Office of the Courts, will be available during your meeting. She served on the Advisory Committee for these new standards and will report on their development.

The California Commission on Access to Justice will consider endorsing these ABA Standards at its meeting on July 12th.

For more information, contact Frank Monti, Office of Legal Services, Frank.Monti@calbar.ca.gov or 415-538-2141.

Reference Materials Weblinks:

[Language Barriers to Justice in California](#) – Published by the California Commission on Access to Justice, 2005.

[US Department of Justice Letter to State Courts](#)

ABA [Language Access Standards Project](#)

[Draft ABA Standards for Language Access in Courts Report](#)