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Language Access Standards Project

Proposed Language Access Standards

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 in 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.

[Draft Standards
Project Advisory Group](#)

Open Forum/Teleconference:

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About the Project

The American Bar Association, through its Standing Committee on Legal Aid and Indigent Defendants and several other ABA sub-groups, has embarked upon a 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 will be guided by a 30-person advisory group consisting of representatives of all stakeholder groups.

ABA Standards for Language Access in Courts

August 2011

NOTE: This copy of the Standards is provided for review purposes only. The Standards have been approved by the ABA Standing Committee on Legal Aid and Indigent Defendants, which will submit them for approval by the American Bar Association at the Annual Meeting in August, 2011. The Standards are not ABA policy until they are adopted by the ABA House of Delegates. The Standards and commentary are undergoing editorial revisions.

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Standards for Language Access in Courts

INTRODUCTION

Purpose

These *Standards for Language Access in Courts* are intended to assist courts in designing, implementing, and enforcing a comprehensive system of language access services that is suited to the need in the communities they serve. Facilitating access to justice is an integral part of the mission of the courts. As American society is comprised of a significant and growing number of persons with limited English proficiency (LEP) in every part of the country, it is increasingly necessary to the fair administration of justice to ensure that courts are language accessible to LEP persons who are brought before, or require access to, the courts.

An LEP person is one who speaks a language other than English as his or her primary language and has a limited ability to read, write, speak, or understand English. According to the 2007 – 2009 American Community Survey, 19.8 % of the U.S. population age 5 or older speaks a language other than English at home, a 1.8% increase since 2000.¹ The language proficiency required for meaningful participation in court proceedings is high because of the use of legal terms, the structured nature of court proceedings, and the stress normally associated with a legal proceeding when important interests are at stake. Therefore, it is widely recognized that language access services, through professional interpretation of spoken communication and translation of documents, as well as the use of bilingual and multilingual court personnel, lawyers, and others integral to court operations and services, are an essential component of a functional and fair justice system.

Lack of language access services exacts a serious toll on the justice system. Although there is scant national data on the number of LEP persons involved in court proceedings, there is ample experience and anecdotal evidence to substantiate that many LEP persons regularly come before the courts and are unable, without language access services, to protect or enforce their legal rights, with devastating consequences to life, liberty, family, and property interests.² Persons who are unable to communicate in English are also likely to have limited

¹ According to the 2000 Census, 18 percent of the U.S. population age 5 or older, or 47 million persons, speak a language other than English at home. According to the 2007 – 2009 ACS Survey, that number increased to 19.8 %. The 2010 Census data is not yet available. This information will be updated should the Census data be available by the time of printing. U.S. Census Bureau, http://factfinder.census.gov/servlet/GCTTable?_bm=y&-state=gct&-ds_name=ACS_2005_EST_G00_-CONTEXT=gct&-mt_name=ACS_2005_EST_G00_GCT1601_US9&-redoLog=false&-geo_id=01000US&-format=US-9&-lang=en. See also, http://factfinder.census.gov/servlet/STTable?_bm=y&-geo_id=01000US&-qr_name=ACS_2009_3YR_G00_S1601&-ds_name=ACS_2009_3YR_G00_-lang=en&-redoLog=false&-format=&-CONTEXT=st

² Laura Abel, *Language Access in State Courts*, Brennan Center for Justice at New York University School of Law, (2009), http://www.brennancenter.org/content/resource/language_access_in_state_courts/.

1 understanding of their rights and of the role of the courts in ensuring that rights are respected.
2 The language barrier exacerbates this lack of awareness, and effectively prevents many LEP
3 persons from accessing the system of justice. Inability to communicate due to language
4 differences also has an impact on the functioning of the courts and the effect of judgments, as
5 proceedings may be delayed, the court record not meet legal standards, and court orders be
6 rendered unenforceable or convictions overturned if a defendant or other party has not been
7 able to understand or be understood during the proceedings.

8 These *Standards* recognize that language services are critical to ensure access to justice for LEP
9 persons and necessary for the administration of justice by ensuring the integrity of the fact-
10 finding process, accuracy of court records, efficiency in legal proceedings, and the public’s trust
11 in the judicial system.

12 Scope

13 The *Standards* represent the considered judgment of persons and organizations with
14 experience in and ties to state courts across the country, and the *Commentary* is primarily
15 geared toward those courts. The ABA focused on state courts because, in the United States, the
16 majority of persons who come into contact with the justice system do so in state courts.
17 Moreover, there is an important and vibrant effort in the states to identify and remedy
18 obstacles to access to justice, including those faced by LEP persons. Several national
19 organizations, including the Conference of Chief Justices and the Conference of State Court
20 Administrators, have adopted resolutions identifying language access as an immediate concern,
21 and the National Center for State Courts has directed attention and scarce resources to address
22 the problem.³ Because of the importance of the state courts and state court leadership in this
23 area, the ABA undertook to contribute resources and draw on its national scope and
24 membership to assist the effort to improve language access in state courts.

³ Conferences of Chief Justices, Conference of State Court Administrators, Resolution 2 In Support of Efforts to Increase Access to Justice, <http://ccj.ncsc.dni.us/AccessToJusticeResolutions/resol2IncreaseAccesstoJustice.html> (last visited Apr. 18, 2011), <http://cosca.ncsc.dni.us/Resolutions/AccessToJustice/2Civil%20Gideon%20Proposal.pdf> (last visited Apr. 18, 2011); Conference of Chief Justices, Resolution 7 In Support of Efforts to Ensure Adequate Court Interpretation Services, http://ccj.ncsc.dni.us/AccessToJusticeResolutions/resol7_AdequateCourtInterpretationSvcs.html (last visited Apr. 18, 2011); Conference of Chief Justices, Conferences of State Court Administrators, Resolution 12 In Support of State Courts’ Responsibility to Promote Bias-Free Behavior, <http://ccj.ncsc.dni.us/AccessToJusticeResolutions/resol12PromoteBiasFreeBehavior.html> (last visited Apr. 18, 2011), <http://cosca.ncsc.dni.us/Resolutions/resolutionPromoteBiasFreeBehavior.html> (last visited Apr. 18, 2011); Conference of Chief Justices, Resolution 23 Leadership to Promote Access to Justice, <http://ccj.ncsc.dni.us/AccessToJusticeResolutions/resol23Leadership.html> (last visited Apr. 18, 2011).

1 The access to justice imperative of *Standard 1* and the need for a comprehensive system for
2 language access that addresses the principles in *Standards 2-10* are equally applicable to all
3 adjudicatory bodies that deal with LEP persons: federal courts, territorial courts, administrative
4 tribunals at the federal, state, and local level, military tribunals, and tribal courts. It is expected
5 that such courts and tribunals also will conduct a review of their operations in the light of these
6 *Standards* and evaluate their systems and services against the access to justice imperative of
7 *Standard 1*.

8 Overall, the *Standards* are intended to provide a guide to assist courts in developing a
9 comprehensive system for language access. Courts are encouraged to adopt requirements for
10 language access through legislation, court rules, or administrative orders that are clear,
11 effective, and enforceable.

12 *Constitutional and Legal Requirements*

13

14 The *Standards* are grounded in constitutional rulings, and statutory and regulatory provisions
15 that establish minimum requirements for the affirmative access to justice goal of *Standard 1*.
16 The *Commentary* cites selected cases, statutes, and regulations and also draws on "Guidance"
17 documents issued by the United States Department of Justice (DOJ) in 2002 and 2010 pursuant
18 to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d-1, which prohibits national origin
19 discrimination by recipients of federal financial assistance. Because many state courts and
20 affiliated service providers receive federal financial assistance and are therefore subject to
21 these mandates, the *Commentary* seeks to enhance their awareness and understanding of
22 official interpretations of their obligations. All courts must provide access to justice on a fair
23 and nondiscriminatory basis. Therefore, even for courts and related organizations that are not
24 recipients of federal financial assistance, the views of DOJ, the nation's chief legal office
25 charged with implementing nondiscrimination laws, deserve the most serious consideration.

26 *Process*

27 The *Standards* were developed under the auspices of the ABA's Standing Committee on Legal
28 Aid and Indigent Defendants (SCLAID) through an extended consultative process with a broad
29 range of professionals and organizations with deep experience in court administration and
30 language access issues in the courts. The *Standards* build upon the discussion of cultural
31 competence and use of interpreters in attorney-client communication discussed in the
32 *Standard for the Provision of Civil Legal Aid* adopted by the ABA in 2006,⁴ and the ABA

⁴ American Bar Association, Standing Committee on Legal Aid and Indigent Defendants, *Standards for the Provision of Civil Legal Aid* (2006), http://www.americanbar.org/content/dam/aba/migrated/legalservices/sclaid/downloads/civillegalaidstds2007_authcheckdam.pdf

1 *Commission on Domestic Violence, Standards of Practice for Lawyers Representing Victims of*
2 *Domestic Violence, Sexual Assault and Stalking in Civil Protection Order Cases* adopted in 2007.⁵
3 The *Standards* were drafted with the active participation of a national Advisory Group
4 composed of judges, court administrators, interpreters, translators, public defenders, civil legal
5 aid attorneys, members of the private bar, and advocates who brought expertise gained from a
6 variety of perspectives, and geographical and practice areas. The Advisory Group reviewed
7 legal requirements, discussed problems encountered and practices followed in different court
8 settings, and consulted with organizations of judges, court administrators, and advocacy groups
9 -- all with a view to establishing practical standards with broad support and identifying
10 resources and best practices. The Advisory Group was guided by two reporters, who brought
11 extensive experience and expertise in language access issues to their work preparing drafts of
12 the *Standards*.

13 *Structure and Organization*

14 *Standard 1* establishes the imperative that courts must "as a fundamental principle of law,
15 fairness, and access to justice" provide language access services so that courts will be accessible
16 to LEP persons. *Standard 1* is therefore stated in mandatory terms. *Standards 2-10* set out
17 different and essential components of a comprehensive system to address the needs of LEP
18 persons in court and court-related services, and are subdivided to address specific matters
19 included within the overall subject matter of the particular standard. They provide a blueprint
20 for courts to design, implement, and enforce a system adapted to the organization and
21 administration of their court systems and the type of court proceedings they handle, and to
22 discuss the relative benefits and burdens of different approaches, and the composition and
23 needs of the LEP communities they serve. *Standards 2-10* are therefore phrased in terms of
24 "should" in order to denote that they are to be adapted to specific courts and communities.
25 However, each of *Standards 2-10* is an essential component of a comprehensive and effective
26 system of language access services, and courts will need to implement all of them in achieving
27 the overarching access to justice imperative of *Standard 1*. Each *Standard* is accompanied by
28 extended *Commentary* intended for courts and practitioners. The *Commentary* gathers legal
29 authority, identifies best practices, discusses legal and practical issues that can arise in specific
30 settings as well as strategies for addressing them, and provides information about additional
31 sources of expertise and assistance.

⁵ ABA Comm'n on Domestic Violence, *Standards of Practice for Lawyers Representing Victims of Domestic Violence, Sexual Assault, and Stalking in Civil Protection Order Cases* Std. III.D.3 (2007), http://www.americanbar.org/content/dam/aba/migrated/2011_build/domestic_violence/aba_standards_of_practice_dv.authcheckdam.pdf; Am. Bar Ass'n, Resolution 109 (1997) (recommending that "all courts be provided with qualified language interpreters").

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Translated Materials

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[Translated Court Publications](#) by the Superior Court of California, County of Sacramento. Includes materials regarding domestic violence, family law, juvenile dependency, traffic and unlawful detainers in, among others, Hmong, Korean, Lao, Russian, Samoan, Spanish, Tongan, Ukrainian and Urdu.

Translated Judicial Council Forms

Domestic violence forms [Chinese](#) | [Spanish](#) | [Korean](#) | [Vietnamese](#)

Bilingual and/or Translated Court websites

Court	Spanish	Chinese	Korean	Vietnamese	Russian
Cal. Courts	California Courts Self-Help Center				

	Center				
Los Angeles	Website translation project				
Fresno	Spanish Self-help Center (Recursos Legales)				
Santa Clara	Self-help Center			Self-help Center	
Riverside	Self-help center				

Effective programs

[“Tip of the Day” Radio Program](#)

Developed by the Superior Court of California, County of Ventura.

[Assisting Court Customers with Educational and Self-Help Services \(ACCESS\)](#)

Implemented in the Superior Court of California, County of San Francisco.

[Bi-weekly articles in English and Spanish in local Latino newspaper educating readers.](#)

[Spanish Resource Guide to Fresno Superior Court](#) . A Spanish resource guide to the court’s self-help services and jury services published and distributed to 42,000 subscribers inside an issue of Vida en El Valle, the largest Spanish-language newspaper in the Fresno area.

[Click here](#) (PDF) for Program Bus Sign in English. [Click here](#) (PDF) for Program Bus Sign in Spanish.

[Welcome from Court Staff – Video](#) (Available in English, Spanish, Korean, Mandarin, Punjabi and Tagalog.) (prepared by the [Superior Court of Contra Costa](#)).

Tools for Providing Services to LEP Litigants

Multi-lingual ["Need an Interpreter?" poster](#) and ["Need an Interpreter?" flyer](#) . Prepared for the Administrative Office of the Courts.

[Small printable signs](#) in English, Chinese, Korean, Spanish, and Vietnamese that inform people that the court will be closed for the next holiday. It includes separate signs for each of the court holidays in 2009.

[Tools for Dealing with Cross-cultural communication Issues](#) (prepared for the [California Conference on Self-Represented Litigants](#)).

[English/Spanish glossary](#) (prepared by the

[English/Spanish glossary](#) (prepared by the Superior Court of California, County of Imperial)

[Resources for providing services to LEP litigants](#) (prepared for the California Conference on Self-Represented Litigants).

[Comparisons between two legal systems \(Mexico and U.S.\)](#) (prepared by the Superior Court of California, County of Imperial).

[Cultural Competence in a Hotline](#) (prepared by Bay Area Legal Aid <http://www.baylegal.org/> for the [California Conference on Self-Represented Litigants](#)).

[Expanding Legal Services: Providing Services to LEP Asians and Pacific Islanders](#)
(prepared by the [Asian Pacific American Legal Center](#)).

[Providing Services to LEP Asian and Pacific Islander Litigants](#) (prepared by the Asian Pacific American Legal Center < <http://apalc.org/>> for the [California Conference on Self-Represented Litigants](#)).

[Borderland Justice: Working With Culture in Courts Along the US/Mexico Border](#) by
John A. Martin, Jose Guillen and Diane Altamirano (March 16, 2007)

[Fact Sheet: Domestic Violence-Family Law Interpreter Program](#) (May 2007). Prepared by the Administrative Office of the Courts.

Multi-lingual glossaries

[Legal Glossaries](#)

In 11 languages, developed by the Superior Court of California, County of Sacramento.

[Supreme Court of Arizona Glossary of Legal Terms](#)

[Spanish Language Style Guide and Glossaries for U.S. Government Web Sites](#)

A resource on language use and terminology for Web managers dealing with websites in Spanish and/or Spanish language contractors.

[Translating Justice: A Spanish Glossary for New York City](#) . An English-to-Spanish language resource for interpreters and bilingual staff in New York City's courts, justice agencies, and nonprofit organizations. Prepared by the [Vera Institute for Justice](#) .

[Translating Justice: A Traditional Chinese Glossary for New York City](#) . An English-to-Chinese language resource for interpreters and bilingual staff in New York City's courts, justice agencies, and nonprofit organizations. Prepared by the [Vera Institute for Justice](#) .

Interpreter and Translator resources

[Court Interpreters Program](#)

Includes a [database](#) of Certified and Registered court interpreters.

[American Translators Association](#)

Provides information on over 9,500 translators and interpreters.

[Fact Sheet: Domestic Violence-Family Law Interpreter Program](#) (May 2007). Prepared by the Administrative Office of the Courts.

National LEP Resources

[LEP.gov](#)

Clearinghouse for LEP information and tools developed by the Federal government.

[Language Assistance Self-Assessment and Planning Tool for Recipients of Federal Financial Assistance](#)

A planning and self-assessment tool to assist in planning efforts to ensure programs have meaningful access for limited English proficient individuals.

[Commonly Asked Questions and Answers](#)

Information regarding Executive Order 13166.

["I Speak Cards"](#)

In 38 languages to assist LEP individuals to identify the language they speak.

[Breaking Down the Language Barrier](#)

Video training tool provided by the Department of Justice. For extra copies, contact the Civil Rights Division's Coordination and Review Selection at (202) 307-2222 or via e-mail at crt.lep@usdoj.gov. This video can be viewed with the Real Player application.

Online translation tools

These translation tools sometimes provide inaccurate translations, and should be used only as a first step in translating simple sentences, words, and concepts. Though they can be of help in communicating with LEP customers, they should not be the only means of providing this assistance and should be reviewed and corrected by a speaker of the target language.

[Google Translator Toolkit](#)

Tool for document translation, managing translation projects, online collaboration, and including features such as multi-lingual glossaries, and translation memories.

<http://www.freetranslation.com>

Translation available between English and: Italian, Dutch, Portuguese, Russian, Spanish and Chinese.

<http://translation2.paralink.com/>

Translation available between English and: French, German, Portuguese, Russian and Spanish.

<http://world.altavista.com/>

Translation available between English and: Chinese, Dutch, French, German, Greek, Italian, Japanese, Korean, Russian, Portuguese, and Spanish.

http://www.worldlingo.com/en/products_services/worldlingo_translator.html

Translation available between English and all languages listed in Altavista above.

<http://www.babblefish.com/babblefish/>

Babblefish.com specializes in language translation and money conversion.

<http://www.aslpro.com/cgi-bin/aslpro/phrases>

Translation and dictionary between English and American Sign Language

<http://www.world.altavista.com/>

Web resource with translation links for multiple languages

Language Access Reference Materials

[2005 Language Need and Interpreter Use Study](#)

[State Bar's List of Published Reports – 2005 on language access](#)

[APAL's 2006, California Speaks: Language Diversity and English Proficiency by Legislative District](#)

[Language Barriers to Justice in California: A Report of the California Commission on Access to Justice](#)

[Action Plan for Justice: A Report of the California Commission on Access to Justice \(April 2007\)](#)

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