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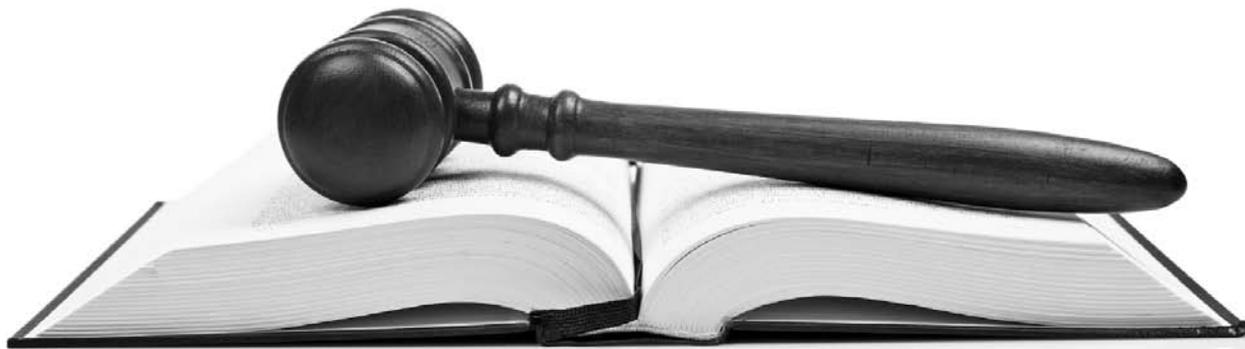
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LANGUAGE ACCESS IN STATE COURTS

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In this article I offer information to help civil legal aid attorneys ensure that limited-English-proficient (LEP) individuals are able to access state courts in civil cases. I first outline the sources of courts' legal obligation to provide language access and then lay out guidelines for court interpreter programs. I base this article on my Brennan Center report, *Language Access in State Courts*, which explores language access and reviews the extent to which individual states are complying with their language-access obligations.¹

The Legal Obligations of State Courts

The constitutional rights of access to the courts, counsel, due process, and equal protection all require the provision of interpreters in court. Federal courts have held that LEP defendants in criminal and asylum cases have a constitutional right to an interpreter.² State courts have found a constitutional right to an interpreter in small-claims cases and in cases concerning child welfare, domestic violence restraining orders, employment, landlord-tenant disputes, and trespassing.³

Moreover, Title VI of the Civil Rights Act of 1964 imposes language-access requirements on state and county courts that receive federal funds.⁴ Many courts must comply with Title VI because they—or a court system to which they belong—receive funding from the U.S. Department of Health and Human Services, Department of Justice, Department of Transportation's National Highway Traffic Safety Administration, or the State Justice Institute.⁵

¹For more information and a link to the full report, see my Brennan Center for Justice, *Language Access in State Courts* (2009), <http://bit.ly/9IOZ0N>. In this article I do not cover several related topics: the obligation of state courts to provide access to the deaf and hearing impaired, language-accessible written materials, and language access in criminal cases and federal court.

²See, e.g., *United States ex rel. Negron v. New York*, 434 F.2d 386, 387 (2d Cir. 1970) (criminal); *Agustin v. Sava*, 735 F.2d 32, 37–38 (2d Cir. 1984) (asylum).

³*Gardiana v. Small Claims Court*, 59 Cal. App. 3d 412 (1976) (small claims); *In re Doe*, 57 P.3d 447, 457, 459 (Haw. 2002) (child welfare); *Figueroa v. Doherty*, 303 Ill. App. 3d 46, 50 (Ill. App. Ct. 1999) (employment); *Sabuda v. Kim*, 2006 WL 2382461 (Mich. Ct. App. Aug. 17, 2006) (restraining order); *Daoud v. Mohammad*, 952 A.2d 1091 (N.J. Super. Ct. 2008) (landlord-tenant); *Caballero v. Seventh Judicial District Court ex rel. County of White Pine*, 167 P.3d 415 (Nev. 2007) (small claims); *Yellen v. Baez*, 676 N.Y.S.2d 724, 727 (N.Y. Civ. Ct. 1997) (landlord-tenant); *Strook v. Keding*, 2009 WL 385410 ¶ 17 (Wis. Ct. App. Feb. 18, 2009) (action for trespassing).

⁴42 U.S.C. §§ 2000d, 2000d-4a; see also *Lau v. Nichols*, 414 U.S. 563, 568–69 (1974) (interpreting Title VI regulations promulgated by the U.S. Department of Health, Education, and Welfare as requiring language access). For tips on how to determine if a court is bound by Title VI because it belongs to a court system, parts of which receive federal funding, see my *Language Access in State Courts*, *supra* note 1, app. C.

⁵For a list of federal funds frequently directed to state courts, see my *Language Access in State Courts*, *supra* note 1, app. C.

According to the Justice Department, Title VI requires state court systems that receive federal funding to⁶

- provide interpreters in criminal and civil matters for “LEP individuals during all hearings, trials, and motions during which the LEP individual must and/or may be present”; the mandate applies as well to critical encounters that occur outside of the courtroom;⁷
- not charge LEP litigants for an interpreter used to interpret courtroom proceedings;⁸
- ensure that the interpreters are competent;⁹
- ensure that judges and other court personnel who come into contact with LEP litigants or witnesses know when and how to use interpreters;¹⁰
- translate “vital” documents into the languages commonly spoken by litigants or other LEP court users; and
- treat LEP individuals the same as other court participants in all other ways, to the extent possible, for example, the same obligation to avoid undue delays in court proceedings because of the need to procure the services of an interpreter.¹¹

A funding recipient may use a less extensive apparatus for the delivery of language-access services for languages spoken less frequently.¹² For example, it may use measures other than a formal

credentialing test to determine whether an interpreter is competent.¹³

Recently the Justice Department placed two glosses on the language-access obligations of state courts and other federal-funding recipients: (1) “[t]he need to show progress in providing all LEP persons with meaningful access increases over time,” and (2) budget problems are no greater excuse for violating Title VI than they would be for violating any other legal obligation.¹⁴ The mandate is clear: state courts receiving federal funding must comply now.

Guidelines for Court Interpreter Programs

For LEP litigants and witnesses in civil proceedings, courts should provide competent interpreters at no cost and ensure that judges and other court personnel respond appropriately to language-access needs.

Legal Obligation: Provide Interpreters to All LEP Litigants and Witnesses in All Civil Proceedings. The following practices are likely to lead to compliance with this requirement.

Written Statewide Mandate Covering All Parties and Witnesses in All Civil Proceedings. In all civil proceedings, interpreters should be provided for LEP parties, witnesses, and victims and for LEP parents and guardians of English-proficient minors who are appearing as litigants,

⁶Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455, 41457 (June 18, 2002); see also Letter from Loretta King, Deputy Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, to Director of State Court and/or State Court Administrator, Dec. 1, 2003, <http://bit.ly/b2JYlp>.

⁷Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. at 41471–72.

⁸*Id.* at 41462.

⁹*Id.* at 41461, 41471.

¹⁰*Id.* at 41471.

¹¹*Id.* at 41461.

¹²*Id.* at 41471.

¹³*Id.*

¹⁴Loretta King, Acting Assistant Attorney General for Civil Rights, U.S. Department of Justice, Prepared Remarks at Meeting of the Federal Interagency Working Group on Limited English Proficiency (April 20, 2009), www.lep.gov (quoting Letter from Merrill A. Friedlander, Chief, Coordination and Review Section, Civil Rights Division, U.S. Department of Justice, to Lilia G. Judson, Executive Director, Division of State Court Administration, Indiana Supreme Court (Feb. 4, 2009)).

witnesses, or victims.¹⁵ To ensure that all participants in the court system are aware of the requirement, a written statute, court rule, or administrative order should apply throughout the state.¹⁶

Clear Standard and Guidelines for Determining Eligibility. Statewide guidelines should set a clear standard for determining the level of English language proficiency that warrants appointment of an interpreter.¹⁷ The standard should presume that anyone requesting an interpreter needs one and should recognize that an individual's ability to speak some English does not mean that the individual can speak or understand enough to proceed without an interpreter, particularly in a complicated, emotionally intense proceeding.¹⁸

Clear Procedure for Appealing Denials of Interpreters. All denials of an interpreter should be placed on the record.¹⁹ Upon denial of an application for an interpreter, the court should inform the applicant of the right to appeal and how to do so. Denials should be appealable immediately.²⁰

Granting Interpreter Waivers Only when They Are Knowing and Voluntary and the Court Determines that an Individual Is Proficient in English. Waiver of the appoint-

ment of an interpreter should be allowed only if the court finds that the waiver is knowing and voluntary.²¹ Waiver should be denied if a court determines that an individual has limited proficiency in speaking or understanding English.²²

Informing Litigants, Witnesses, and Anyone Else Entitled to an Interpreter of Their Right to an Interpreter During Their First Contact with a Judge or Court Clerk. When an LEP party first comes into contact with the court system and at each point of entry into the system, the LEP party or witness should receive notice that interpreters are available and free of charge.²³ Notice should appear on the court system's website, on signs placed prominently in clerks' offices, courtrooms, and other public areas, and on court documents and forms; the first court employee to come into contact with litigants should also give the notice.

Notice should be given in each language in which interpreter services are commonly requested, in wording comprehensible to nonlawyers.²⁴ For example, even when a form is in English, the form should state, in the commonly requested languages, that interpretation services are available. Among useful resources are "I speak" cards by the Justice Department and a notice by Massachusetts Legal

¹⁵U.S. Department of Justice, No. 171-34-8, Memorandum of Understanding Between the United States of America and the State of Maine Judicial Branch 3 (2008), <http://bit.ly/cACnYg>.

¹⁶See *id.* at 3–4.

¹⁷*Id.* at 4.

¹⁸NATIONAL CENTER FOR STATE COURTS, COURT INTERPRETATION: MODEL GUIDES FOR POLICY AND PRACTICE IN THE STATE COURTS 126 (2002), see <http://bit.ly/aghP3W>; Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. at 41471.

¹⁹See, e.g., CAL. STANDARDS OF JUDICIAL ADMIN. 2.10(c) (2004), <http://bit.ly/9yrPzo>; Georgia Supreme Court, Use of Interpreters for Non-English Speaking Persons, App. A, § I(D) (2003), <http://bit.ly/a9b0cL>; Hawai'i Supreme Court, Policies for Interpreted Proceedings in the Courts of the State of Hawai'i, § I(B).

²⁰See, e.g., Louisiana Language Access Coalition, Language Access Guidelines for Louisiana State Courts, Exhibit 1, § IV.C.1, <http://bit.ly/aokhpn>; see also Resolution Proposed by the Joint Right to Counsel, Access to Justice Language Access Subcommittee of the Louisiana State Bar Association, <http://bit.ly/aokhpn> (urging Louisiana Supreme Court to adopt language-access guidelines drafted by Louisiana Language Access Coalition); *House Approves 11 Resolutions, Elects Liaison Committee at Midyear Meeting*, BAR BRIEFS, Jan. 2010, at 1, <http://bit.ly/9JpZcr> (resolution was passed by bar association's House of Delegates).

²¹See, e.g., STANDARDS AND PROCEDURES OF THE [MASS.] OFFICE OF COURT INTERPRETER SERVICES § 14.06 (2003), <http://bit.ly/dilEgt>; N.M. CODE R. § 38-10-6(A) (2009); UTAH RULES OF JUDICIAL ADMINISTRATION R. 3-306(7), <http://bit.ly/c2wvjy>.

²²Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. at 41462–63.

²³*Id.* at 41465.

²⁴*Id.*

Services in thirty-two languages: “You have a right to an interpreter at no cost to you. Please point to your language. An interpreter will be called. Please wait.”²⁵

Legal Obligation: Do Not Charge for Interpreters. When states charge for interpreters, many LEP litigants refrain from requesting interpreters and judges do not appoint them. For example, in Indiana, court discretion in assessing the cost of interpreter services means that, in many counties, attorneys and litigants avoid requesting court-supplied interpreters.²⁶ In February 2009 Merrily A. Friedlander, chief of the Justice Department Civil Rights Division Coordination and Review Section, informed the Indiana Supreme Court that Title VI barred charging litigants for interpreters.²⁷

Legal Obligation: Ensure that Interpreters Are Competent and Act Appropriately. The following practices are likely to lead to compliance with this requirement.

Assess Ability Before Appointing an Interpreter. First, use only interpreters with credentials obtained through training and testing of requisite abilities. A court interpreter must

- be fluent in both languages (covering the particular dialect spoken and slang and idioms used);
- be able to maintain the meaning, style, and tone of the original source;

- be able to use the interpretation skill needed in a particular case: simultaneous or consecutive interpretation, or sight translation of written materials; and
- be familiar with the unique culture of the courtroom, any legal matters that the interpreter needs to interpret, and the ethical duties of an interpreter.²⁸

Two credentialing regimes that test all or most of these abilities are the federal certification examination for Spanish interpreters and the oral interpreting examinations available through the Consortium for State Court Language Access.²⁹ Interpreters may need more skills for cases involving sensitive or complicated matters such as domestic violence or child abuse.

Second, rely on a noncredentialed interpreter only after trained, dedicated court staff members assess the interpreter’s qualifications. Courts must verify that noncredentialed interpreters, such as any bilingual court employees who interpret, actually possess the required capabilities.³⁰ Assessments should be conducted by court staff members who have court interpreting expertise, have been trained to perform interpreter assessments, and perform such assessments regularly as part of their job.³¹ Courts must also assess the skills of interpreters who have been deemed “certified,” “li-

²⁵See Massachusetts Law Reform Institute, Multilingual Interpreter Rights and Requests for Help Posters and Cards (2008), <http://bit.ly/cUrJce>.

²⁶Interview with Angelika Mueller, Managing Attorney, Indiana Legal Services (April 30, 2008; June 24, 2008).

²⁷Friedlander, *supra* note 14.

²⁸See NATIONAL CENTER FOR STATE COURTS, *supra* note 18, at 16; National Association of Judiciary Interpreters and Translators, Position Paper: Information for Court Administrators 2–3 (2003), <http://bit.ly/aTLXZ9>, and Position Paper: Preparing Interpreters in Rare Languages 2–3 (2005); Conference of State Court Administrators, White Paper on Court Interpretation: Fundamental to Access to Justice 6 (2007), <http://bit.ly/cmGUGO>.

²⁹Federal Court Interpreter Certification Examination Program (n.d.), <http://bit.ly/bDUMcL>; National Center for State Courts, Court Interpreting Consortium Certification Test Research Services: Consortium Oral Examinations Ready for Administration (n.d.), <http://bit.ly/9zcVn6>.

³⁰Conference of State Court Administrators, *supra* note 28, at 9. For guides to conducting such evaluations, see National Association of Judiciary Interpreters and Translators, Position Paper: Preparing Interpreters in Rare Languages, *supra* note 28; NATIONAL CENTER FOR STATE COURTS, *supra* note 18, at 115–17; Civil Rights Division, U.S. Department of Justice, Executive Order 13166 Limited English Proficiency Resource Document: Tips and Tools from the Field ch. 5.D (2004), <http://bit.ly/c67ean>.

³¹NATIONAL CENTER FOR STATE COURTS, *supra* note 18, at 127; see also *Arrieta v. State*, 878 N.E.2d 1238, 1241 (Ind. 2008) (in 2001 survey, Indiana trial judges reported “they were often unable to determine whether” given interpreter was “genuinely qualified”).

censed,” “provisionally certified,” “registered,” “qualified,” or the like without demonstrating all the skills necessary for a court interpreter. This need arises all too often because outside the federal courts there is no standard definition of any of these terms.

And, third, rely on judges or other court personnel to voir dire interpreters only as a matter of last resort. Court personnel or a judge can ask an interpreter a series of questions to assess, at a minimum, whether the interpreter can communicate in English and the target language, has court interpreting experience, and is familiar and able to comply with the applicable ethics code.³² The inquiry should be made on the record.³³ A uniform, state-wide standard should determine competence, and uniform guidelines should govern judges and court personnel in assessing an interpreter’s abilities.³⁴

Ensure that Interpreters Remain Competent. Interpreters should be required to attend continuing education training.³⁵

Adopt and Require Adherence to a Code of Ethics. The court system should adopt a code of ethics for interpreters; the code should cover topics such as the obligation to (1) interpret accurately, (2) alert the court if the interpreter is unable to interpret accurately, (3) maintain confidentiality, (4) remain impartial and avoid

conflicts of interest, and (5) honestly portray the interpreter’s credentials.³⁶ Interpreters should be required to know the guidelines, and deviation from them should be grounds to remove an interpreter from the case at hand and, in some instances, from eligibility to serve as a court interpreter. Rigorous adherence to ethics regimes is essential when the LEP individual and the interpreter are likely to know each other because they come from the same small community.³⁷

Ensure an Adequate Supply of Competent Interpreters in Languages Needed. Courts must pay sufficient compensation to attract and retain competent interpreters. The National Center for State Courts and the American Translators Association can help determine what constitutes a competitive salary or hourly wage in your geographic area.³⁸ Courts in need of interpreters can seek help from the National Association of Judiciary Interpreters and Translators, the American Translators Association, and local court interpreter and community organizations.³⁹

Establish relationships with other states to create and access a shared pool of interpreters and limit the use of telephonic interpretation. Reciprocity agreements with other states (under which interpreters certified in one state may work in the other), coupled with the establishment

³²For questions to assess interpreters’ abilities, see NATIONAL CENTER FOR STATE COURTS, *supra* note 18, at 128; Ohio Supreme Court, Working With Foreign Language Interpreters: A Bench Card for Judges 1 (2007); COURT PROGRAMS AND SERVICES DIVISION, OFFICE OF THE STATE COURT ADMINISTRATOR, OREGON JUDICIAL DEPARTMENT, OREGON JUDGES CRIMINAL BENCHBOOK ch. 19 at 1032–33 (2005), <http://bit.ly/a9hRKB>; New Jersey Judiciary, Manual for Judges and Other Court Officials Who Use Interpreting Services Delivered by Telephone app. A (2001), <http://bit.ly/diEd8j>.

³³NATIONAL CENTER FOR STATE COURTS, *supra* note 18, at 128.

³⁴See, e.g., Ohio Supreme Court, *supra* note 32.

³⁵NATIONAL CENTER FOR STATE COURTS, *supra* note 18, at 224.

³⁶Sakhi for South Asian Women, Talking the Talk: A National Study of Court Interpreters—Preliminary Data and Recommendations on Language Access in NYS Courts 3 (n.d.), <http://bit.ly/btIWfU>. For models, see NATIONAL CENTER FOR STATE COURTS, COURT INTERPRETATION: MODEL GUIDE FOR POLICY AND PRACTICE IN THE STATE COURTS ch. 9 (Model Code of Professional Responsibility for Interpreters in the Judiciary) (2009), <http://bit.ly/bNmnoU>; National Association of Judiciary Interpreters and Translators, Code of Ethics and Professional Responsibilities (n.d.), <http://bit.ly/cOz4jt>.

³⁷BRENDA K. UEKERT ET AL., SERVING LIMITED ENGLISH PROFICIENT (LEP) BATTERED WOMEN: A NATIONAL SURVEY OF THE COURTS’ CAPACITY TO PROVIDE PROTECTION ORDERS 76 (2006), <http://bit.ly/cAsc5o>.

³⁸See National Association of Judiciary Interpreters and Translators, Position Paper: Equal Access as It Relates to Interpretation and Translation Services 3 (2006), <http://bit.ly/aLH3a2>.

³⁹Conference of State Court Administrators, *supra* note 28, at 10; Alaska Immigration Justice Project, The Language Interpreter Center (2007), <http://bit.ly/cw5114>; Suzanne DiPietro & Brenda Aiken, *Courts Report Shortage of Interpreters*, ALASKA BAR RAG, July–Sept. 2005, <http://bit.ly/cMdpWp>; South Asian Americans Living Together, *Recommendations Around Assisting South Asians Facing Linguistic and Cultural Barriers*, NEW JERSEY ISSUE BRIEFS (n.d.), at 8, <http://bit.ly/8Y0thp>.

of regional pools of interpreters willing to travel between states, can expand the group of interpreters available to participating states.⁴⁰

When local interpreters are not available for a given language, states can allow interpreters to interpret remotely by telephone or videoconference. However, the proper equipment must be used, and both the interpreter and court personnel must be trained in remote interpreting protocols.⁴¹ Some states compromise regarding remote interpreting by using such services only for short proceedings or meetings, or only when a local interpreter is unavailable.⁴²

Another concern arises when remote interpretation is through a service that does not give the court system sufficient information to assess the competence of the individual interpreter.⁴³ Court systems that use such a service should require in their contracts that the service conduct its own quality control and monitoring. Courts that do not know what abilities the service assesses should conduct a *voir dire* before using individual interpreters from the service.⁴⁴ Using a pool of credentialed interpreters to conduct remote interpretation instead of using an outside agency is another option.⁴⁵

Maintaining records on the need and demand for interpreters helps plan for future needs. Court administrators should use census and other available data to track demographic changes that may indicate changes in the need for interpretation in a particular language.⁴⁶ Furthermore, state courts should keep records on (1) the frequency with which interpreters are requested for different languages, (2) the extent to which certified interpreters are assigned in response to the requests, and (3) any delays in supplying interpreters.⁴⁷

Allow Litigants and Court Personnel to Challenge the Appointment of Interpreters on Competence and Ethics Grounds, and Implement a Disciplinary Procedure. Litigants and court personnel must be allowed to challenge the appointment of a specific interpreter in a specific case.⁴⁸ Litigants should be told whether anyone has assessed the interpreter's legal interpreting skills and proficiency in English and the target language and how to object to the appointment of a specific interpreter and obtain the appointment of another interpreter.⁴⁹

A procedure should be in place to allow judges, court personnel, litigants, and attorneys to complain anonymously

⁴⁰See National Center for State Courts, Consortium for State Court Interpreter Certification: Frequently Asked Questions 2 (last modified April 23, 2008), <http://bit.ly/cOFXbL>; Conference of State Court Administrators, *supra* note 28, at 12.

⁴¹Telephone interpreters must have a high-quality headset with a mute button, separate dual volume control, and an amplifier; all who are expected to hear the interpretation or to have their speech interpreted should each have their own headset, handset, or microphone (National Association of Judiciary Interpreters and Translators, Position Paper: Telephone Interpreting in Legal Settings (2009), <http://bit.ly/djbCEe>). For videointerpreting best practices, see National Association of the Deaf, Position Statement: VRI Services in Hospitals (2008), <http://bit.ly/cjFQeO>.

⁴²E.g., New Jersey permits the use of telephonic interpretation when no local interpreter is reasonably available, but only when the use of a telephonic interpreter is fiscally responsible and does not compromise the quality of the interpretation (see New Jersey Judiciary, *supra* note 32); see also Civil Rights Division, U.S. Department of Justice, *supra* note 30.

⁴³See Randall T. Shepard, *Access to Justice for People Who Do Not Speak English*, 40 INDIANA LAW REVIEW 643, 656 (2007).

⁴⁴National Association of Judiciary Interpreters and Translators, *supra* note 41.

⁴⁵See New Jersey Judiciary, *supra* note 32, at 1; National Asian Pacific American Bar Association, *Increasing Access to Justice for Limited English Proficient Asian Pacific Americans: Report for Action 40* (2007), <http://bit.ly/b0J4ZG>.

⁴⁶Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. at 41455, 41460, 41464–65.

⁴⁷*Id.*; National Asian Pacific American Bar Association, *supra* note 45, at 55.

⁴⁸See Madelynn Herman & Wanda Romberger, *Court Interpreter Ethics Programs: Where We Are and Where We Should Be Going*, in FUTURE TRENDS IN STATE COURTS 108 (Tracy Peters et al. eds., 2005).

⁴⁹See, e.g., KY. REV. STAT. ANN. § 30A.410 (2009); OR. REV. STAT. § 45.275(5) (2009).

about interpreters' behavior.⁵⁰ Litigants and witnesses should be informed about how to file a complaint, and complaints should be accepted in any language. Someone should be responsible for following up on the complaints within clear time frames.⁵¹ Interpreters should be informed, at the commencement of their employment, about what is expected and about the sanctions they may incur if they violate expectations. At the same time any disciplinary procedure should protect interpreters' due process rights.⁵²

Vest a Single Office or Individual Within the Court System with Responsibility for Implementing and Overseeing the Court Interpreter Program. Statewide oversight is necessary to ensure that the state and county courts meet their language-access obligations.⁵³ Statewide coordination also saves money and time by centralizing interpreter recruiting, training, and testing; minimizing delays; and ensuring efficient use of interpreters.⁵⁴

Legal Obligation: Ensure Appropriate Action by Judges and Court Personnel Who Come into Contact with LEP Litigants. Judges and other court personnel who have contact with the public need training in how to determine whether a party or witness needs the assistance of an interpreter, whether a particular interpreter is competent, and how to use interpreters.⁵⁵ Judges must be able to manage courtrooms in which simultaneous or consecutive interpreting of testimony or proceedings is occurring.

States should teach these skills to judges and other court personnel both at orientations and at regular ongoing training.⁵⁶ Judges may be more inclined to exercise

care in handling interpreters if their skill in using interpreters is an aspect of performance evaluations and if formal feedback is developed to process complaints from litigants and interpreters about how court interpretation is handled.

Legal Obligation: To the Extent Possible, Ensure that LEP Individuals Receive the Same Treatment as Other Court Participants. The National Center for State Courts is an excellent resource for practices that states can use, while using interpreter time efficiently, to minimize the need to delay court proceedings.⁵⁷

What You Can Do

You as advocates can help make the court system more accessible to LEP individuals.

Determine Whether Your State Complies. The Brennan Center website, www.brennancenter.org/content/resource/language_access_in_state_courts, describes the extent to which court interpreters are provided in thirty-five states. If your state is not among the thirty-five, or if you want to track your state's progress over time, you can use the website's checklist, which lists the legal obligations of state court interpreter programs and shows how to determine whether your state is meeting those obligations.

Work for Change. Educate both your state legislature (particularly its judiciary committee) and state and county courts (particularly the courts' administrative arms) about the language-access obligations imposed by Title VI. Examples of successful advocacy campaigns around language access in the courts are the work

⁵⁰See Herman & Romberger, *supra* note 48, at 109.

⁵¹*Id.*

⁵²See, e.g., MINN. DIST. CT. R. 8.08(b) cmt., <http://bit.ly/bAID29>.

⁵³National Asian Pacific American Bar Association, *supra* note 45, at 58; NATIONAL CENTER FOR STATE COURTS, *supra* note 18, at 222–23.

⁵⁴NATIONAL CENTER FOR STATE COURTS, *supra* note 18, at 89–90.

⁵⁵Conference of State Court Administrators, *supra* note 28, at 24; California Commission on Access to Justice, Language Barriers to Access to Justice in California 28–29 (2005), <http://bit.ly/bcq9bj>.

⁵⁶See U.S. Department of Justice, *supra* note 15, at 5.

⁵⁷See NATIONAL CENTER FOR STATE COURTS, *supra* note 18, at 243–44.

of New York's Justice Speaks coalition, Community Legal Services in Philadelphia, and the Washington State Coalition for Language Access.⁵⁸

Partner with the Justice Department.

Report violations of Title VI to the Coordination and Review Section of the Justice Department. The section, and the Justice Department generally, appear committed to ensuring that state courts receiving federal funding comply with Title VI. In February 2009, after the Indiana Supreme Court ruled that non-indigent criminal defendants need not be provided with free interpreters, the section informed the court of Title VI's requirements.⁵⁹ And in September 2008 the section entered into a memorandum of understanding with Maine's judicial

branch, in which Maine obligated itself to provide interpreters free of charge. More investigations regarding language access in the courts are pending in Alabama, Colorado, North Carolina, and Rhode Island.

A complaint form, information about where to send complaints, and the Coordination and Review Section's telephone number are found on its website at www.usdoj.gov/crt/cor/complaint.php.

Join the National Network. The National Language Access Advocates Network (N-LAAN) supports and engages in advocacy to eradicate language discrimination in the courts and other public arenas. Information about N-LAAN and about joining it is available at www.probono.net/nlaan.

⁵⁸Laura Abel & Paul Uyehara, *Language Access in the Courts and Law Enforcement*, 22 MANAGEMENT INFORMATION EXCHANGE JOURNAL 36, 37 (2008); Gillian Dutton, *Working Effectively with Limited English Proficient Clients: How Good Interpreter and Translation Services Can Improve Our Advocacy for Clients*, ABA COMMISSION ON DOMESTIC VIOLENCE E-NEWSLETTER, Spring 2008, <http://bit.ly/9t6bF8>.

⁵⁹Friedlander, *supra* note 14.



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