

**HAWAII STATE JUDICIARY
LANGUAGE ACCESS PLAN
FOR PERSONS WITH
LIMITED ENGLISH PROFICIENCY
FY 2013-2014**



Table of Contents

I.	INTRODUCTION: HAWAII’S LIMITED ENGLISH PROFICIENT (LEP) POPULATION	1
II.	LEGAL BASES FOR LANGUAGE ACCESS.....	3
III.	FOUR-FACTOR ANALYSIS REQUIRED TO DETERMINE THE EXTENT OF LANGUAGE ASSISTANCE TO BE PROVIDED	3
IV.	LIMITED ENGLISH PROFICIENT POPULATIONS ELIGIBLE TO BE SERVED BY STATE COURTS	5
V.	PROTOCOL FOR PROVIDING LANGUAGE SERVICES	7
A.	PUBLIC NOTICE OF THE RIGHT TO AN INTERPRETER	7
B.	PROCEDURE FOR PROVIDING LANGUAGE SERVICES FOR IN-COURT PROCEEDINGS	8
1.	<i>Determine the Need for an Interpreter in the Courtroom</i>	8
2.	<i>Obtain Court Interpreter Services</i>	9
C.	PROCEDURE FOR PROVIDING LANGUAGE SERVICES OUTSIDE OF THE COURTROOM.....	12
1.	<i>Identify the Language Needs</i>	12
2.	<i>Contact Most Appropriate and Accessible Bilingual Volunteer Staff</i>	13
3.	<i>Consider Free Online Translation Services</i>	13
4.	<i>Utilize Contracted Telephonic Interpreting Service</i>	14
5.	<i>Special Situations</i>	15
a)	Language Not Listed on “If You Need an Interpreter” Card.....	15
b)	No Telephonic Interpreter Available	15
c)	Other Circumstances.....	15
6.	<i>Telephone Calls</i>	16
7.	<i>Written Translation</i>	16
8.	<i>LEP/Language Access Data Collection Project</i>	16
VI.	LANGUAGE ACCESS RESOURCES AVAILABLE FOR IN-COURT AND OUT-OF-COURT PROCEEDINGS.....	16
A.	COURT INTERPRETER CERTIFICATION PROGRAM	16
B.	COURT INTERPRETER REGISTRY	18
C.	DOCUMENT TRANSLATION	19
1.	<i>Vital Documents</i>	19
2.	<i>Notice of Availability of Document Translation</i>	19
D.	NOTICE	19
VII.	LEP/LANGUAGE ACCESS DATA COLLECTION PROJECT.....	20
VIII.	STAFF TRAINING.....	21
A.	LANGUAGE ACCESS PLAN (LAP).....	21
B.	BILINGUAL VOLUNTEER STAFF	22
IX.	MONITORING AND UPDATING THE PLAN	22
X.	DESIGNATION OF THE JUDICIARY LANGUAGE ACCESS COORDINATOR.....	23
XI.	CONCLUSION	23

Hawai'i State Judiciary
Language Access Plan
for Persons with Limited English Proficiency
FY 2013-2014

I. INTRODUCTION: HAWAII'S LIMITED ENGLISH PROFICIENT (LEP) POPULATION

Hawai'i has a diverse mix of people and cultures representing numerous languages and dialects. The demographic composition of the Judiciary's eligible client population has changed dramatically, as both the number of immigrants and the rate of immigration continue to climb. In addition, Hawaii's linguistic makeup is becoming more and more diverse as migrants come from many new countries, representing many new languages and dialects, particularly among the Asian and Pacific Island languages.

Hawaii has one of the highest relative proportions of non-English speakers in the nation. Despite its isolated location in the middle of the vast Pacific Ocean more than 2,500 miles from the continental United States, Hawai'i has a relatively large foreign-born population. Hawaii's foreign-born population increased from 162,704 in 1990, to 246,091 in 2011, a change of 51.3%.¹ In 2011, the foreign born represented 17.9% of Hawaii's total population, ranking it sixth among all states, of which nearly half (49.8%) reported that they speak English less than "very well."² Individuals who speak English less than "very well" are considered to be limited English proficient (LEP).

According to the U.S. Census Bureau American Community Survey 2011 (5-year Estimates), 305,212 Hawai'i residents five years and older, or 25.2%, speak a language other than English at home, ranking it ninth among all states.³ Of those, 148,965, or 11.8% reported that they speak English "less than very well," ranking Hawai'i seventh among all states.⁴ According to a 2012 U.S. Census Bureau Press Release, Hawai'i is one of only five "majority-minority" states (with the District of Columbia, California, New Mexico, and Texas).⁵ Hawai'i has the largest minority population (77.1%) of all states and is the only majority-Asian state in the nation, with this group

¹ Hawaii's foreign-born population increased in number from 162,704 in 1990, to 212,229 in 2000, to 246,091 in 2011. Jeanne Batalova of the MPI Data Hub (Migration Policy Institute). Estimates for 1990 and 2000 are from the US Census Bureau, Summary File 3, 1990 and 2000 US Decennial Censuses; 2010 and 2011 estimates are from the US Census Bureau's American Community Surveys, *available at* <http://www.migrationinformation.org/USfocus/display.cfm?id=931#2j>

² U.S. Census Bureau, 2011 American Community Survey 1-Year Estimates ("2011 ACS(1)"), PERCENT OF PEOPLE WHO ARE FOREIGN BORN - United States -- States; and Puerto Rico & Tbl. R0501, *available at* www.factfinder.census.gov.

³ 2011 ACS(1), Hawai'i: Selected Social Characteristics in the United States & Tbl. R1601, Percent of People 5 Years and Over Who Speak a Language Other Than English at Home, *available at* www.factfinder.census.gov.

⁴ U.S. Census Bureau, 2007-2011 American Community Survey 5-Year Estimates ("2011 ACS(5)"), Hawai'i: Selected Social Characteristics in the United States & Tbl. DP02, Percent of People 5 Years and Over Who Speak a Language Other Than English at Home, *available at* www.factfinder.census.gov.

⁵ U.S. Census Bureau, Press Release: Most Children Younger Than Age 1 are Minorities, Census Bureau Reports (May 17, 2012), *available at* <http://www.census.gov/newsroom/releases/archives/population/cb12-90.html>. Majority-minority states are those in which minority ethnic groups are numerically dominant.

comprising 57.1% of the state's total population.⁶ Hawaiʻi has the largest percentage of Native Hawaiians and Pacific Islanders (26.1% in 2011) of all states, and the City and County of Honolulu had the largest population of Native Hawaiians and Pacific Islanders (235,000 or 34%) of all counties in the nation.⁷ Nearly 22% of the Asian Pacific Island language speakers in Hawaiʻi speak a language other than English at home, and of those, 52% speak English less than “very well.”⁸ Hawaiʻi experienced an extraordinary influx of Micronesians over a 10 year period, with this population increasing from 6,119 in 1997, to 16,421 in 2007, a 168% change.⁹ Within the four states that comprise the Federated States of Micronesia (Chuuk, Kosrae, Pohnpei, and Yap) alone, 17 languages and dialects are spoken.

Many of Hawaii's foreign-born residents are considered to have LEP and are therefore subject to protection under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *Prohibition Against Exclusion from Participation in, Denial of Benefits of, and Discrimination Under Federally Assisted Programs on Ground of Race, Color, or National Origin* (“Title VI”) and Hawaii's Language Access Law, codified at Hawaiʻi Revised Statutes (HRS) chapter 371, part II, §§ 371-31 to –37 (repealed 2012), Act 201 of July 3, 2012 (recodified at HRS ch. 321C). The United States Department of Justice (DOJ) has defined persons who have LEP as individuals for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English.¹⁰ This includes those individuals who reported that they speak English less than “very well” on the Census. Moreover, a person may not have LEP in all situations. That is, a person may be able to go shopping, catch the bus, and get around the community with their level of English skills. However, due to the formal court setting, difficult legal language, and significant impact a court case can have on people's lives, that person may not be able to navigate the court system or meaningfully participate in legal proceedings with the same level of English skills, and thus may be considered a court customer with LEP. Language for individuals who have LEP can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federal agencies and federally funded programs and activities.

⁶ U.S. Census Bureau, Press Release (May 17, 2012), *supra* note 5.

⁷ *Id.* The “Native Hawaiian or Other Pacific Islander” category includes persons having origins in any of the original peoples of Hawaiʻi, Guam, Samoa, or other Pacific Islands. It includes people who checked off Native Hawaiian, Guamanian or Chamorro, Samoan, or Other Pacific Islander. “It also includes people who reported entries such as Pacific Islander; Polynesian entries, such as Tahitian, Tongan, and Tokelauan; Micronesian entries, such as Marshallese, Palauan, and Chuukese; and Melanesian entries, such as Fijian, Guinean, and Solomon Islander.” U.S. Census Bureau, *The Native Hawaiian and Other Pacific Islander Population 2010 Census Briefs* (May 2012), available at <http://www.census.gov/prod/cen2010/briefs/c2010br-12.pdf>.

⁸ 2011 ACS(1), Hawaiʻi: Language Spoken at Home, Tbl. S1601, available at www.factfinder.census.gov.

⁹ U.S. Gov't Acct'g Off., Cong. Rpt. No. GAO-02-40, *Foreign Relations: Migration from Micronesian Nations Has Had a Significant Impact on Guam, Hawaii, and the Commonwealth of the Northern Mariana Islands* (Oct. 2001), available at <http://www.gao.gov/new.items/d0240.pdf>. A discussion of the reasons for the burgeoning Micronesian migration to the U.S. is beyond the scope of this report; however, it appears that this trend will continue, and the numbers of Micronesian migrants to Hawaiʻi will likely not decline in the near future.

¹⁰ Limited English Proficient (LEP) persons are “individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.” U.S. Dep't of Justice, *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 67 Fed. Reg. 41455, 41459 (June 18, 2002).

Hawaii's recent demographic changes exacerbate the difficulty of responding to the needs of the Judiciary's client population. The Hawai'i State Judiciary is cognizant of the federal and state legal requirements associated with individuals who have LEP and has developed this plan accordingly to ensure their equal access to court services.

II. LEGAL BASES FOR LANGUAGE ACCESS

Title VI provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” Different treatment based upon a person's inability to speak, read, write, or understand English may be national origin discrimination under Title VI. The Department of Justice issued Guidance on the implementation of Title VI in 2002.¹¹ Further guidance is provided in the U.S. Department of Justice letter to state courts, issued on August 16, 2010.¹²

On August 11, 2000, President William J. Clinton signed into law Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (“EO 13166”), requiring all agencies receiving federal funds to address the needs of persons who, due to their status as having limited English proficiency (LEP), cannot fully and equally participate in the agency's programs and activities. Whereas Title VI creates obligations for recipients of federal funds to provide meaningful access for persons with LEP to federally conducted programs, EO 13166 creates obligations for federal agencies to do the same.¹³

On July 10, 2006, the Hawai'i State Legislature enacted Hawaii's Language Access Law, now HRS Ch. 321C, to further reduce language barriers that can preclude meaningful access by individuals who have LEP to services, programs, and activities offered by the State of Hawai'i or by state-funded programs. Hawaii's Language Access Law specifically requires each state agency or covered entity (entities that receive state funds) to establish a language access plan (LAP).¹⁴ State agencies receiving federal financial assistance, including the Judiciary, were required to file an initial LAP by July 1, 2007, and an updated LAP every two years thereafter.¹⁵

III. FOUR-FACTOR ANALYSIS REQUIRED TO DETERMINE THE EXTENT OF LANGUAGE ASSISTANCE TO BE PROVIDED

The U.S. Department of Justice *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (“DOJ Guidance”) issued pursuant to Title VI and EO 13166, is intended to assist DOJ-funded programs, including those in the Judiciary, to provide meaningful access to persons

¹¹ U.S. Dep't of Justice, *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 67 Fed. Reg. 41455 (June 22, 2002) (“DOJ Guidance”).

¹² U.S. Dep't of Justice, *Letter to Chief Justices/State Court Administrators* (Aug. 16, 2010), *available at* http://www.lep.gov/final_courts_ltr_081610.pdf.

¹³ *See, e.g.*, U.S. Dep't of Justice, *Memorandum to Heads of Federal Agencies, General Counsels and Civil Rights Heads re: Federal Government's Renewed commitment to Language Access Obligations under Executive Order 13166* (Feb. 17, 2011), *available at* http://www.justice.gov/crt/about/cor/AG_021711_EO_13166_Memo_to_Agencies_with_Supplement.pdf.

¹⁴ Hawai'i Revised Statutes (HRS) § 321C-4.

¹⁵ *Id.*

with LEP. To determine if language access services must be provided, and if so, the extent of those services, requires an individualized analysis that balances the following four factors:

- 1) The number or proportion of persons who have LEP that are eligible to be served or likely to be encountered by the program or grantee;
- 2) The frequency with which individuals with LEP come in contact with the program;
- 3) The nature and importance of the program, activity, or service provided by the program to people's lives; and
- 4) The resources available to the Judiciary and associated costs.

If, pursuant to the above four-factor analysis, the Judiciary determines that it requires additional Judiciary staff to provide language services to persons who have LEP because more reasonable or appropriate means of providing these services are not available, the Judiciary, consistent with state and federal laws, shall hire qualified staff who are bilingual to fill existing, budgeted, vacant public contact positions.¹⁶ In a report submitted to the Hawai'i Office of Language Access (OLA) on January 5, 2009, the Judiciary identified the public contact positions within its organization statewide in which interfacing with state court users constitutes a significant part of the incumbent's regularly assigned job duties. *See* Attachment A, Hawai'i State Judiciary, Public Contact Positions Survey Report (Jan. 5, 2009). The Judiciary recognizes the need to employ new and innovative recruitment strategies to ensure departments have the resources needed to meet the increased demand for language services through bilingual staff. Although having sufficient bilingual staff within each service area to obviate the need for contracted interpreting services is desired, this ideal work environment has not been achieved to date. However, the Judiciary remains committed to looking at alternative ways to utilize the education, training, and work experience of its immigrant populations to meet the increasing needs of its court customers who have LEP.

Upon determining the language assistance services that are appropriate to provide meaningful access to the agency's programs, services, and activities, the DOJ recommends that a Language Access Plan (LAP) be developed to address the identified language needs of the population with LEP that is served, including the following: (1) identifying LEP individuals who need language assistance; (2) developing language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LAP.¹⁷

The Judiciary developed this LAP to identify the needs of the community it serves and to ensure that persons with LEP have meaningful access to Judiciary programs, services, and activities in compliance with Title VI, EO 13166, and HRS Chapter 321C. The Judiciary has also designated the Program Director of the Office on Equality and Access to the Courts (OEAC) as the Language Access Coordinator (LAC), responsible for overseeing the implementation and evaluation of language access services under the LAP. *See* Section X below.

¹⁶ HRS § 321C-3(d).

¹⁷ DOJ Guidance, *supra* note 11, at 41464-65; *see also* U.S. Dep't of Justice, Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs (May 2011), *available at* http://www.lep.gov/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf.

IV. LIMITED ENGLISH PROFICIENT POPULATIONS ELIGIBLE TO BE SERVED BY STATE COURTS

The diversity of races and cultures in Hawai'i is reflected in the makeup of state court users. Indicative of a growing population that has LEP are the Judiciary's annual expenditures for court interpreters, which have risen dramatically due both to greater demand for interpreting services, as well as increased interpreter pay rates implemented as part of the Judiciary's Court Interpreter Certification Program in FY 2007-2008.

In addition to compiling the above statistics, the Judiciary in 2007 conducted a self-assessment to identify the points of public contact in each of its programs and to determine the language assistance needs of those programs. The Judiciary compiled data on the populations with LEP that were served and the primary points of public contact with the state courts, the current services in place to meet the needs of these populations, and the availability of oral language services and translated documents. The Judiciary also reviewed its signage and how staff and court customers who have LEP understand the right to free language access services. In FY 2011-2012, the Judiciary provided oral language services (court interpreting) to LEP defendants and witnesses in state courts in more than 7,694 cases, with expenditures exceeding \$454,400.00.

TOP LANGUAGES REQUESTED FY 2012					
S T A T E W I D E					
	Language	\$ Paid	Rank	Language	# Cases
1	Chuukese	\$92,861.04	1	Chuukese	2,696
2	Ilokano	\$61,900.11	2	Ilokano	887
3	Marshallese	\$41,336.14	3	Korean	744
4	Spanish	\$35,508.53	4	Marshallese	669
5	Korean	\$33,740.00	5	Spanish	480
6	ASL	\$31,352.76	6	Vietnamese	354
7	Vietnamese	\$30,541.96	7	Japanese	242
8	Tagalog	\$23,906.72	8	Tongan	240
9	Tongan	\$18,925.72	9	Tagalog	234
10	Japanese	\$17,660.79	10	ASL	205
11	Mandarin	\$11,777.75	11	Samoan	177
12	Pohnpeian	\$11,343.51	12	Cantonese	166
13	Samoan	\$10,326.43	13	Pohnpeian	165
14	Cantonese	\$9,091.10	14	Mandarin	156
15	Kosraean	\$5,914.54	15	Kosraean	67

TOP LANGUAGES REQUESTED FY 2012						
H A W A I ' I						
Rank	Language	\$ Paid		Rank	Language	# Cases
1	Chuukese	\$13,188.60		1	Chuukese	515
2	Marshallese	\$12,749.00		2	Marshallese	318
3	Ilokano	\$9,081.27		3	Ilokano	185
4	ASL	\$8,493.94		4	Spanish	122
5	Spanish	\$7,618.45		5	ASL	54

TOP LANGUAGES REQUESTED FY 2012						
K A U A I						
Rank	Language	\$ Paid		Rank	Language	# Cases
1	Marshallese	\$10,541.14		1	Marshallese	34
2	Tagalog	\$7,597.16		2	Tagalog	30
3	Ilokano	\$4,364.01		3	Ilokano	28
4	Tongan	\$3,314.10		4T	Spanish	9
5	ASL	\$2,824.80		4T	Tongan	9

TOP LANGUAGES REQUESTED FY 2012						
M A U I						
Rank	Language	\$ Paid		Rank	Language	# Cases
1	Spanish	\$12,378.92		1	Spanish	225
2	Ilokano	\$6,144.25		2	Ilokano	142
3	Tongan	\$2,879.50		3	Tongan	65
4	Pohnpeian	\$2,535.37		4	Marshallese	37
5	Marshallese	\$2,189.15		5	Chuukese	35

TOP LANGUAGES REQUESTED FY 2012						
O A H U						
Rank	Language	\$ Paid		Rank	Language	# Cases
1	Chuukese	\$78,360.56		1	Chuukese	2,146
2	Ilokano	\$42,310.58		2	Korean	709
3	Korean	\$30,872.90		3	Ilokano	532
4	Vietnamese	\$29,325.56		4	Vietnamese	350
5	ASL	\$19,557.50		5	Marshallese	280
6	Japanese	\$16,123.94		6	Japanese	219
7	Marshallese	\$15,856.85		7	Tagalog	168
8	Spanish	\$14,678.06		8	Samoan	166
9	Tagalog	\$14,317.13		9	Cantonese	163
10	Tongan	\$11,765.62		10	Tongan	149
11	Samoan	\$9,570.63		11	ASL	139
12	Mandarin	\$9,506.10		12	Mandarin	137
13	Cantonese	\$8,920.45		13	Spanish	124
14	Pohnpeian	\$4,542.23		14	Pohnpeian	87
15	Kosraean	\$4,216.83		15	Kosraean	57

V. PROTOCOL FOR PROVIDING LANGUAGE SERVICES

As part of the Judiciary's commitment to promoting and providing language access for LEP court customers, the Judiciary adopted Judiciary Policy 2013-1, which provides:

The Hawaii State Judiciary is committed to providing meaningful access to court processes and services to persons with limited English proficiency. The Judiciary shall reasonably provide competent, timely, and free language assistance for Judiciary-related business. The Judiciary shall reasonably notify the public of the Judiciary's language assistance commitment.

The Policy is posted on the Judiciary's website language assistance page. *See* Attachment B Language Identification / Notice Materials.

A. PUBLIC NOTICE OF THE RIGHT TO AN INTERPRETER

To ensure that individuals who have LEP are afforded meaningful access to the courts, it is important for the Judiciary to inform them of their right to an interpreter. Strategically placed signs and/or pamphlets at a courthouse or court facility are a functional and effective method to inform speakers who have LEP, where and how to request language assistance. Signage has been and will continue to be made available to staff at specified court support service locations identified as primary points of public contact. *See* Section VI(D) below and Attachment B Language Identification / Notice Materials.

Update: The Judiciary posted on its website a multilingual notice of availability of language access services in 12 languages of high demand. By clicking on a list of languages on the Judiciary's homepage, an LEP person can directly access the multilingual notice. The notice informs LEP individuals of the right to language access services at no cost. See Attachment B Language Identification / Notice Materials.

In 2012, the Judiciary piloted multilingual language identification cards (Language ID Cards) that were distributed at Information Desks and Ho'okele Court Service Centers located in First Circuit courthouses; these cards were then made available on the Judiciary's internet site on August 16, 2012. The pilot release of Language ID Cards and posting on the Judiciary website was timed concurrently with the August 15-20, 2012 release of multilingual *Welcome Banners* at First Circuit courthouses to welcome court users in English and 14 non-English languages. See Attachment B, Language Identification / Notice Materials.

As a result of the pilot project, permanent Language ID cards are scheduled to be made available in courthouses statewide by December 2013. The cards will be printed in English and 14 non-English languages. Acrylic wall-mounted business card holder displays will be installed at court locations in each judicial circuit to make the cards available to the public. Individuals who have LEP will be able to request an interpreter by showing the appropriate Language ID Card to staff. Judiciary staff will be alerted to the language needs of LEP court customers and can more efficiently provide appropriate language services without embarrassment or undue delay to them.

Pursuant to an Access to Justice Commission grant from the ABA, the Judiciary is collaborating with the Access to Justice Commission to develop an informational flyer to explain the process of how an LEP individual can obtain an interpreter for a court matter. The project also includes the development of a form to request an interpreter that can inform the Judiciary of a language access need prior to a court appearance or meeting date. The projected completion date is December 2013.

B. PROCEDURE FOR PROVIDING LANGUAGE SERVICES FOR IN-COURT PROCEEDINGS

The Judiciary, through its Administrative Director of the Courts, Office on Equality and Access to the Courts (OEAC), and Hawai'i Supreme Court Committee on Court Interpreters and Language Access (CILA) (formerly known as the Hawai'i Supreme Court Committee on Court Interpreters), is committed to providing the most qualified interpreter reasonably available to afford defendants and witnesses with LEP meaningful access to the courts.

OEAC serves as the platform for planning and policy-making in the area of court interpreting within the Hawai'i state courts. Although OEAC provides guidance to Judiciary staff regarding court interpreting services obtained and used in the Hawai'i state courts, direct provision of interpreting services, including scheduling and payment, falls under the responsibility of the court operations of each court level within the Judiciary.

1. Determine the Need for an Interpreter in the Courtroom

Hawai'i Supreme Court Rules establish standards for determining the need for a court interpreter in a legal proceeding. The rules provide that:

An interpreter is needed if, upon examination by the court,

- (1) a party or witness is unable to speak English so as to be understood directly by counsel, court, and jury, or

- (2) if a party is unable to hear, understand, speak, and/or use English sufficiently to comprehend the proceedings and to assist counsel in the conduct of the case.¹⁸

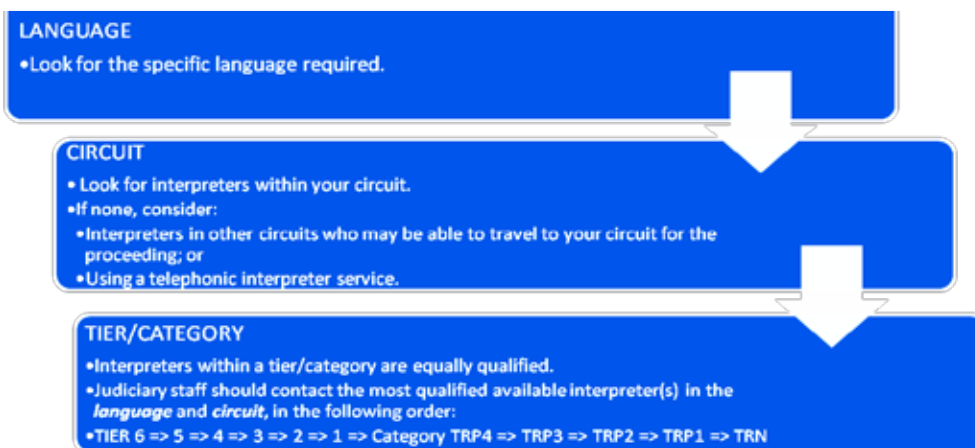
There are various ways that the Judiciary determines whether a court customer with LEP needs language services to participate in a legal proceeding. Identifying the need for an interpreter in a legal proceeding and the provision of interpreting services for such legal proceeding may initially occur through the request of the court customer with LEP or someone on his/her behalf, or through the request of an authorized court clerk, judicial assistant, bailiff, or other court staff. Non-Judiciary staff, including but not limited to, the public defender, prosecuting attorney, private attorney, or community advocate, may also inform the court of their client’s need for an interpreter in a particular case. Where no request for an interpreter has been made, but it appears that an individual may have LEP, the presiding judge may provide an interpreter to ensure equal access to the courts. The ultimate responsibility for authorizing the provision of an in-court interpreter in a legal proceeding rests with the presiding judge.

2. Obtain Court Interpreter Services

Once it has been determined that an individual requires language services to meaningfully participate in a legal proceeding, Judiciary policy requires the provision of the most qualified reasonably available interpreter to provide such services. Authorized Judiciary staff is trained to contact and obtain the most qualified interpreter in a given language reasonably available for a particular assignment, by using the Court Interpreter Registry (“Registry”).

The Registry is a statewide list of interpreters eligible to interpret in the state courts. Interpreters are listed by Language, Circuit, and Tier/Category. Within each Tier/Category, interpreters are listed in reverse alphabetical order by last name.¹⁹ Judiciary staff should contact interpreters in the required language within the specific circuit, beginning with interpreters in the highest available tier, then the next highest tier(s), and so on from Tier 6/Certified Master Interpreters through Tier 1/Registered Interpreters. The chart below outlines the procedure for obtaining a court interpreter from the Registry for in-court proceedings.

Procedure for Finding a Court Interpreter Using the Court Interpreter



¹⁸ Order Adopting the Policies for Interpreted Proceedings in the Courts of the State of Hawai‘i, filed June 22, 1995), in Hawai‘i Rules for Certification of Spoken & Sign Language Interpreters, at App. B (Haw. S. Ct., adopted July 11, 2007, effective nunc pro tunc July 1, 2007), available at <http://www.state.hi.us/jud/ctrules/cssli.pdf>.

¹⁹ After evaluation of requests by court interpreters, the Judiciary placed the Registry list in reverse alphabetical order by last name, as of September 1, 2007.

The court may appoint interpreters who are not listed on the statewide Registry only when listed interpreters are unavailable. In these circumstances, Judiciary staff should use transitional interpreters who have applied to the Certification Program, but have not yet satisfied the mandatory minimum requirements and are therefore not listed on the Registry. All contracted interpreters are expected to adhere to the ethics and competency standards adopted by the Judiciary. As such, all interpreters are required to complete a Declaration agreeing to abide by these standards.

In the event that no resources for in-person spoken language interpretation can be secured through this process, the court may suspend the case until an interpreter is available or consider using – for limited purposes - the telephonic interpreting service provided by the Judiciary's contracted vendor, CTS LanguageLink. The chart below, *Handling LEP Speakers in the Courtroom*, summarizes this procedure.

Finally, if a telephonic interpreter is not available, Judiciary staff should contact the Office on Equality and Access to the Courts (OEAC) as early as possible prior to the scheduled court date, for assistance in securing the resources necessary to meet the language needs of the individual with LEP for an in-court proceeding. When individuals require access to services within short time frames, Judiciary staff – in consultation with a supervisor, manager, or court administrator and the Judiciary's Language Access Coordinator (LAC) – shall take reasonable actions to ensure that all court customers with LEP have access to language access services as needed.

At the end of the transaction, Judiciary staff shall log the encounter and the service provided (or requested) on the User Log-LEP/Language Services form. *See* Section VII below.

The above protocol is intended to ensure that individuals with LEP who are deemed important to the case are provided with appropriate language services to facilitate their meaningful participation in the legal proceeding. There is no charge to the court customer with LEP for court-ordered interpreter services. It is generally inappropriate to allow the use of friends or family members, particularly minors, as interpreters in a legal proceeding in court. The better practice in cases where a defendant or witness who has LEP requires an interpreter is to continue the hearing to a future date and to order the provision of an interpreter in the needed language, as this authorizes Judiciary staff to retain an interpreter by using the Court Interpreter Registry. Nothing in this plan precludes a party from bringing their own, privately-retained interpreter to court in a particular case; provided that, in such cases, the courts finds the interpreter qualified to interpret and the cost of the court interpreter is borne by the party, not the court.

Handling LEP Speakers in the Courtroom

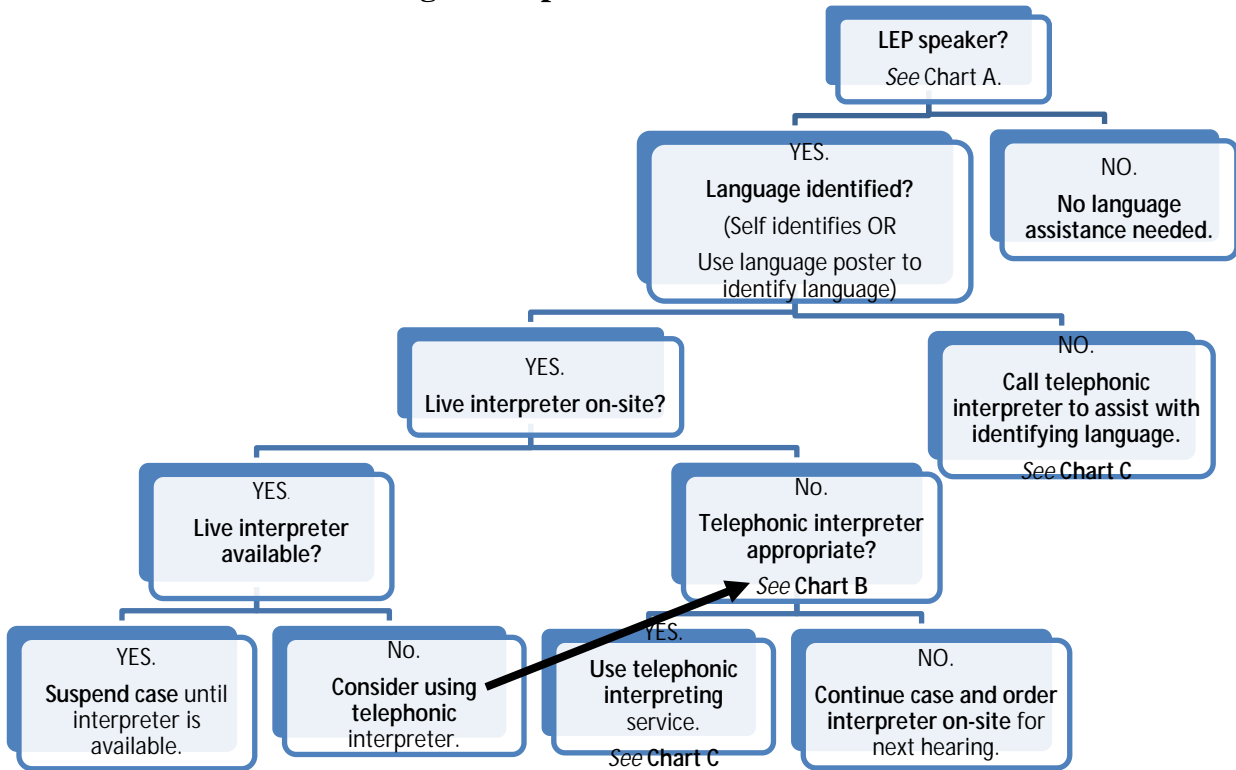


CHART A LEP Speaker: Assessment	CHART B Whether it is Appropriate to Use a Telephonic Interpreter	CHART C Using a Telephonic Interpreter in Court
<p>STANDARD: An interpreter is needed if the speaker is:</p> <ol style="list-style-type: none"> 1) Unable to speak English to be understood by counsel, court, and jury; or 2) Unable to hear, understand, speak and/or use English sufficient to comprehend proceedings and assist counsel. <p>DETERMINING FACTORS:</p> <ol style="list-style-type: none"> 1) Non-responsiveness 2) Ask open-ended questions requiring narrative responses 3) Assess: <ul style="list-style-type: none"> • Inappropriate grammar • Awkward vocabulary • Lack of fluency • Unintelligible accents • Repeated statements • "Blank look" <p>SAMPLE QUESTIONS:</p> <ol style="list-style-type: none"> 1) Please state your (name, address, age, birthdate, place) for the record. 2) Where were you born? 3) What is your first language? 	<p>WHEN TO USE TELEPHONIC INTERPRETER IN COURT:</p> <ul style="list-style-type: none"> • When proceedings are short and non-evidentiary (best suited for short proceedings under 15 minutes) • When a rare language is needed • When no certified or qualified interpreter is available • When local interpreters have conflicts of interest • When a hearing must be held before an interpreter can get there, such as for TRO petition and hearings • When interpreter travel costs are high relative to length or importance of hearing <p>WHEN NOT TO USE A TELEPHONIC INTERPRETER:</p> <ul style="list-style-type: none"> • When there is a certified or qualified interpreter close by • For intensive cross-examination or emotionally charged situations • For proceedings longer than 30 minutes or proceedings involving too many people • During trials • Any time that communication is difficult to establish adequately • Any time quality of interpretation 	<p>COURTROOM IS HARD-WIRED (i.e. telephone connected to public announcement (PA) system):</p> <ol style="list-style-type: none"> 1) Activate telephone connection to PA system (30 seconds) 2) Call CTS LanguageLink – see below. <p>COURTROOM IS NOT HARD-WIRED:</p> <p>1) SET UP EXTERNAL GROUP SPEAKERPHONE in courtroom (5-10 minutes depending on staff know how)</p> <ul style="list-style-type: none"> • Court staff obtain equipment from designated staff or locations • Connect speakerphone to breakout box • Connect breakout box to CISCO phone • Connect breakout box to power outlet • Place speakerphone on ledge fronting Judge • Place witness stand microphone on ledge directed towards speakerphone <p>2) CALL CTS LanguageLink 1-877-650-8014 (toll free)</p> <ul style="list-style-type: none"> • Subaccount Number (4 digits) • Language needed • When interpreter is on the telephone: <ul style="list-style-type: none"> • Qualify the interpreter

	<p><i>would be compromised</i></p>	<ul style="list-style-type: none"> · <i>Swear in the interpreter</i>
--	------------------------------------	---

C. PROCEDURE FOR PROVIDING LANGUAGE SERVICES OUTSIDE OF THE COURTROOM

In the course of serving the public, situations may arise where individuals who have LEP are unable to negotiate through court support service centers and/or programs without the assistance of an interpreter. They may come into contact with Judiciary staff in court support services primarily via the telephone or in person. To ensure that individuals who have LEP are not hindered in accessing identified Judiciary programs, services, and activities, the Judiciary will make reasonable efforts to provide an interpreter, free of charge, to court customers with LEP. Judiciary staff should follow these steps to identify and provide language services to court customers with LEP outside of the courtroom. At the end of each encounter with a court customer with LEP, Judiciary staff shall log the encounter and the service provided (or requested) on the User Log-LEP/Language Services form. *See* Section VII below.

1. Identify the Language Needs

Judiciary staff helping a person with LEP should attempt to determine what language that person speaks. To identify the language needs, Judiciary staff may rely on the self-report of the individual with LEP, a friend, or family member or on the presentation of the Language ID card by the individual with LEP. Alternatively, Judiciary staff may show the individual with LEP an “If You Need an Interpreter” card.²⁰ *See* Attachment B, Language Identification / Notice Materials. Staff will allow the individual with LEP to review the card, which directs them to point to the language in which they need an interpreter. In addition, language access signage

²⁰ The Hawai'i Office of Language Access (OLA) has produced “If You Need an Interpreter” cards in 21 languages, including many of the Asian and Pacific Islands languages encountered in Hawai'i, available at http://hawaii.gov/labor/ola/ola-links/ola_poster.pdf.

informing individuals with LEP of the availability of language services in 21 languages is available at specified court support services locations identified as primary points of public contact, and may also be used to help identify the specific language needs of the individual with LEP. Where Judiciary staff is unable to identify what language the individual with LEP speaks using the language access signage or “If You Need an Interpreter” cards, Judiciary staff can use the Judiciary’s telephonic interpreting service to help determine the specific language spoken by the individual with LEP. *See* Section V(C)(5)(a) below.

2. Contact Most Appropriate and Accessible Bilingual Volunteer Staff

The Judiciary currently maintains a workforce in excess of 1,900 staff statewide. Bilingual staff who are willing, on an as-needed basis, to assist the Judiciary by facilitating informal communication outside of the courtroom for individuals who have LEP, are self-identified through a voluntary survey. The use of volunteers, students, and interns may be made available to work with Judiciary staff to meet the language needs of the Judiciary’s populations that have LEP. The Judiciary is working towards creating a position that would enable volunteers to provide basic interpreting services for informal communications.

Bilingual staff, volunteers, students, interns, and temporary hire employees including law clerks, (collectively “staff”) who are willing to facilitate informal communication with individuals who have LEP outside of the courtroom, should complete the Bilingual Volunteer Staff Questionnaire form, available on the Judiciary Intranet in the Forms section and on the EAC department page. *See* Attachment C, Bilingual Volunteer Staff Questionnaire.

Bilingual staff must obtain supervisor approval before agreeing to provide language services upon request of Judiciary staff. The Judiciary will continue to develop criteria specific to departments, offices, or sections, as needed, to most effectively utilize the language skills of bilingual staff, as workload demands may prevent bilingual staff from assisting with language needs for out-of-court encounters with individuals who have LEP.

As a general rule, a competent, in-person interpreter is preferred over a telephone interpreter. The Bilingual Volunteer Staff List (“Bilingual Staff List”)²¹ lists staffs that are willing to facilitate informal communication with individuals who have LEP, as needed and available, to assist the Judiciary in fulfilling its mandate to provide meaningful language access outside of the courtroom.

Once the language needs of the individual with LEP have been determined, Judiciary staff have been trained to contact the most appropriate and accessible bilingual volunteer staff from the Bilingual Staff List. Staff will first contact an available bilingual volunteer staff within the Judiciary nearest to that staff person’s location. If no bilingual volunteer staff is available in proximity to the staff’s location, then staff will proceed to contact another bilingual volunteer staff from the Bilingual Staff List. If no one is available within the Judiciary, then staff will proceed to the next step.

3. Consider Free Online Translation Services

In order to meet simple immediate communicative needs, Judiciary staff may consider using a free online translation service. These services are internet-based and translate an English

²¹ The Bilingual Volunteer Staff List includes the names, non-English language, physical location and contact information of Judiciary staff, volunteers, students, interns, and temporary hires who have submitted the Bilingual Volunteer Staff Questionnaire.

language statement into a foreign language in written form. Users can type in a phrase or sentence in English in one box, select the desired language, and a written translation in the selected language will be shown on the screen. This requires that both Judiciary staff and the person who has LEP can see (or share) the Judiciary staff's computer screen and keyboard. If the person who has LEP speaks a language that uses characters, rather than the Roman alphabet (e.g., Japanese, Chinese, Korean, Russian), the translated text will appear in characters.

Online translation services work best for communicating directions, basic general information, and simple statements, such as:

- “Our office closes in ten minutes.”
- “Take this paper to the second floor.”
- “Please wait and we will find an interpreter.”

Note that this method is not intended for use with complex or technical messages. Because of the potential for miscommunication and the limitations of machine translation technology, Judiciary staff is urged to utilize this option sparingly.

The following free online translation services are suggested:

- Ø **Google Language Tools** – <http://translate.google.com/>
Translation available between English and 70 languages, including: Chinese (Simplified and Traditional), Filipino, Indonesian, Japanese, Korean, Portuguese, Russian, Spanish, Thai, and Vietnamese.
- Ø **Babylon Translation** – <http://translation.babylon.com>
Translation available between English and 29 languages, including: Chinese (Simplified and Traditional), Japanese, Korean, Portuguese, Russian, Spanish, and Thai.
- Ø **BabelFish** – <http://www.babelfish.com/>
Translation available between English and 13 languages, including: Chinese, Japanese, Portuguese, and Spanish.

4. Utilize Contracted Telephonic Interpreting Service

The Judiciary has contracted with a telephonic interpreting service to provide oral interpreting services by telephone, upon request of the Judiciary, after a determination to provide language services was made based on the four-factor analysis stated in Section III above. If an in-person interpreter within the Judiciary cannot be located, a bilingual staff person is not available, and online translation is not sufficient, then the staff helping the individual with LEP should call the contracted telephonic interpreter service. Telephonic interpreting services are available for Judiciary staff statewide. OEAC conducted training on how to use the service and how to work effectively with a telephonic interpreter, including training materials, for staff statewide prior to full implementation of telephonic interpreting services in May 2011 and continues to provide refresher training and training for new staff. Currently, the cost for telephonic interpretation services continues to be borne by OEAC. Once usage trends materialize, costs for the service shall be borne by the specific court or department that uses the service.

Update - training: The Judiciary continues to provide training for new staff and ongoing refresher staff training to support the use of the telephonic interpreter service. 21 training

sessions covering the telephonic interpreter service were conducted from 2011 (7 sessions) to 2012 (9 sessions) and five more so far in 2013.

Update – Courtroom Upgrade Project. In addition to training on this service, the Judiciary has been upgrading its courtrooms to support use of telephonic interpreters in the courtroom when a live interpreter is not reasonably available.

OEAC consulted with ITCD staff on this request and technical staff in all circuits to assess the capability of their courtroom facilities to access telephonic interpreting services for court proceedings, when a live interpreter is not reasonably available. Several courthouses/courtrooms were found to be equipped with telephone breakout boxes that allow the speakerphone to be connected to the PA system in the courtroom. When connected to the PA system, the remote party (on the telephone) can hear what is being said in court, and those present in court can hear the remote party's utterances clearly, thus facilitating the production of a clean record of the proceedings.

For those courthouses/courtrooms that did not have the capability to connect the telephone directly to the existing PA system, OEAC proposed to upgrade selected courtrooms in each circuit with a direct telephone connection to the existing courtroom PA system. This is the ideal configuration to allow for efficient use of telephone interpreters in the courtroom while ensuring a clean record.

In October 2012, ten courtrooms having a high volume of limited English proficient court users and/or cases appropriate for using remote (telephonic) interpreters were selected for upgrade installation during Phase I of the Courtroom Upgrade Project.

Based on the successful completion of Phase I of the Pilot Project, OEAC proceeded with Phase II and began retrofitting all courtrooms statewide to broadcast telephone audio through the existing PA systems that did not have that capability. Installing this technology will facilitate the use of remote (telephonic) interpreters or telephonic appearances while maintaining the quality of the proceeding and the clarity of the record. Phase II of the upgrade project is scheduled for completion in October 2013.

5. Special Situations

a) Language Not Listed on “If You Need an Interpreter” Card

If the court customer with LEP speaks a language that is not listed on the “If You Need an Interpreter” card, Judiciary staff should try to identify the language needs through any other method (i.e., family member or friend, attempting to communicate using simpler terms and slower rate of speech). If still unable to determine the language needs, staff can call the telephonic interpreting service and request a customer service representative for assistance in identifying the customer's language. If this is not successful, then the staff should contact the Judiciary's Language Access Coordinator (LAC) at 539-4860 for further assistance.

b) No Telephonic Interpreter Available

If the telephonic interpreter company representative indicates that it does not have an interpreter available, staff should contact the Judiciary's LAC at 539-4860 for further assistance.

c) Other Circumstances

In cases where language services cannot be provided through the methods listed above, Judiciary staff should contact the LAC at 539-4860 for further assistance. Judiciary staff should not

require, suggest, or encourage an individual with LEP to use a family member or friend as an interpreter. Minor children under the age of 18 should not be used to provide interpreting services. However, a family member or friend may be used as an interpreter if the communication is general in nature, such as asking for directions to a specific location, the time of a scheduled hearing, or the restroom.

The Judiciary received a supplemental legislative appropriation to cover expenses for enhancing the provision of oral language services to court customers with LEP. The Judiciary is committed to taking reasonable steps to ensure that all court customers with LEP have meaningful access, in all case types, to the court system. The Judiciary is providing language access assistance to identified court support services in conformity with the four-factor analysis as discussed in Section III above.

6. Telephone Calls

Should Judiciary staff receive a telephone call from a person who has LEP or a representative of an individual who has LEP and needs oral interpreting services, staff should call the telephonic interpreting service for assistance. Alternatively, to the extent possible, an appointment should be made for the individual with LEP to come into the Judiciary office so that oral interpretation services may be arranged as set forth above.

7. Written Translation

As discussed in Section VI(C) below, the Judiciary is working toward attaching a "notice" to identified court support services documents in order to provide meaningful access to individuals who have LEP. When a request for written translation of a document is received, the supervisor or administrator of the particular division receiving the request shall decide whether or not the request should be granted using the four-factor analysis discussed in Section III above (determining what services to provide and the extent of those services).

8. LEP/Language Access Data Collection Project

In order to assist the Judiciary in identifying population with LEP that are eligible to be served by the state courts and ensuring the provision of language access services to eligible groups that have LEP, the Judiciary has implemented the LEP/Language Access Data Collection Project. Judiciary staff will record each encounter with an individual who has LEP, whether in court or outside of the courtroom. *See* Section IX below.

VI. LANGUAGE ACCESS RESOURCES AVAILABLE FOR IN-COURT AND OUT-OF-COURT PROCEEDINGS

The Judiciary developed the following resources to ensure that court customers who have LEP have meaningful access to the courts and to support the protocols described above.

A. COURT INTERPRETER CERTIFICATION PROGRAM

The Hawai'i State Judiciary's efforts to meet the needs of court customers who have LEP, are driven by the linguistic and cultural diversity of Hawai'i and further challenged by its relative geographic isolation, being the most remote island network from any continental land mass in the world. Hawai'i cannot rely on interpreters to travel from neighboring states to interpret for a case. The Judiciary recognizes that it must build self-sufficiency in its ability to provide qualified court interpreters for a multitude of languages, many of which are considered "rare."

Accordingly, the Judiciary has taken steps to systematically address court interpreter needs for over a decade.

In its ongoing effort to increase the quality of interpreting in the Hawai'i state courts, the Judiciary, through the Office on Equality and Access to the Courts (OEAC), launched the Court Interpreter Certification Program ("Certification Program") in 2007.²² The Hawai'i Rules for Certification of Spoken and Sign Language Interpreters, adopted by the Hawai'i Supreme Court and effective on July 1, 2007,²³ provide the authority for the Certification Program and establish the process by which court interpreters may be registered, certified, and otherwise qualified to provide interpreting services in the Hawai'i state courts. In its continued effort to facilitate the accessibility and availability of court interpreters, the Judiciary introduced legislation to establish an exemption for court interpreters from parking meter violations received while serving a court assignment. The 2011 Legislature passed such legislation, and subsequently, the Governor signed the measure into law.²⁴ In addition, in an effort to fill interpreter requests for assignments in rural courts, the Judiciary increased the mileage reimbursement rate for court interpreters on assignment from \$.35/mile to \$.55/mile effective July 1, 2013.

The Certification Program promotes and ensures equal access to Hawaii's courts for defendants and witnesses who have LEP or are deaf or hard-of-hearing, by providing the most qualified available interpreters to facilitate meaningful participation in court proceedings. The Certification Program structure establishes a minimum standard for court interpreters and allows the Judiciary to categorize interpreters into different designated levels of status (tier), pay, and hiring preference according to their interpreting skill level as determined through measurable objective testing criteria, thereby facilitating the provision of language services to populations with LEP that are served by state courts. The Certification Program is similar to that of 43 other states in the Consortium for Language Access in the Courts (formerly known as the National Consortium for State Court Interpreter Certification) ("Consortium"), of which Hawai'i is a member.

The current requirements to interpret in the Hawai'i state courts are as follows: Interpreters must:

- Be at least eighteen (18) years of age;
- Be eligible to work in the United States;
- Possess a valid Hawai'i General Excise Tax license; and

²² In 2005, legislation was introduced by the Judiciary and later enacted by the Hawai'i State Legislature establishing a revolving fund for court interpreter education, screening, training, testing, and certification, a necessary precursor to the establishment of the Court Interpreter Certification Program. The revolving fund was necessary to create a mechanism for ongoing program fiduciary self-sufficiency. In 2006, the Legislature appropriated \$158,329 in start-up funding for the Judiciary's Court Interpreter Certification Program to orient, screen, train, and test court interpreters, which included funding for two certification staff positions. Act 120 § 7.3 (2006).

²³ Hawai'i Rules for Certification of Spoken & Sign Language Interpreters (Haw. S. Ct., adopted July 11, 2007, effective nunc pro tunc July 1, 2007), available at <http://www.state.hi.us/jud/ctrules/cssli.pdf>.

²⁴ Act 42 (effective May 4, 2011) (to be codified at HRS § 621-8 (b)); see also Gov. Msg. No. 1142 (May 4, 2011).

- Complete a Certification Program Application, available at http://www.courts.state.hi.us/services/court_interpreting/registration_packet_&_instructions.html.

Because court interpretation is a highly specialized form of interpreting that cannot be effectively performed without commensurate specialized training and skills, the Certification Program further establishes the following mandatory minimum requirements to be eligible to interpret in the state courts. Interpreters must:

- 1) Attend a two-day (16 hours) Basic Orientation Workshop. Topics covered include: state courts, legal procedure and terminology, interpreting skills, and ethics;
- 2) Pass both the Consortium Written English Proficiency Exam and the Hawai'i Basic Ethics Exam; and
- 3) Clear a criminal background check administered by the Judiciary.

Interpreters who satisfy the mandatory minimum requirements attain Tier 1/Registered Interpreter designation status and are placed on the Hawai'i State Judiciary Court Interpreter Registry ("Registry"), a statewide roster of interpreters eligible to interpret in state courts. Tier 1 interpreters are eligible to take an Oral Exam that tests interpreting skills and proficiency in both English and their non-English language. Interpreters who achieve qualifying scores on the Oral Exams can attain a higher tier designation and commensurate higher pay rate and hiring preference.

B. COURT INTERPRETER REGISTRY

The Office on Equality and Access to the Courts (OEAC) maintains the Registry, a statewide listing of interpreters eligible to interpret in the state courts. The Registry assists the Judiciary to effectively identify and give assignment preference to the most skilled court interpreters based on a system that assigns a numerical tier designation (i.e., Tiers 6, 5, 4, 3, 2, and 1) to each listed interpreter.

The Registry is available to Judiciary staff statewide through the Judiciary's intranet. The Registry is also made available to the public at <http://www.courts.state.hi.us/docs/services/interpreters.pdf>, or from the Judiciary's website at http://www.courts.state.hi.us/services/court_interpreting/court_interpreting.html (on right sidebar, click on "List of Registered Interpreters," then click on the "registry of interpreters" link in the text). The first page of the Registry is a chart illustrating the various tier designations used by the Certification program to classify interpreters, including requirements for each tier and applicable pay rate. The actual list of interpreters begins on page 3. The Registry lists interpreters by language, circuit (island), and tier designation in descending order from 6 to 1 (with the highest tier, or more qualified interpreters, listed first). Within each tier, interpreters are listed in reverse alphabetical order²⁵ by last name, and are considered equally qualified. *See* Attachment D, Court Interpreter Registry. The Registry is updated regularly by OEAC to ensure that Judiciary staffs have access to the most current roster and contact information for court interpreters.

²⁵ *See supra* note 19.

C. DOCUMENT TRANSLATION

1. *Vital Documents*

The Judiciary has identified vital documents – forms, brochures, and other written materials routinely distributed to English-speaking individuals, that provide important information necessary to access or benefit from its programs, services, or activities. Through a process of prioritization, the Judiciary has identified critical and vital documents to be translated upon availability of funding. *See* Attachment E, Hawai'i State Judiciary, Vital Documents Survey Reports, submitted to the Hawai'i Office of Language Access (OLA) on Nov. 3, 2008 and July 17, 2012. The Judiciary is working to ensure that vital documents are translated where the program regularly encounters languages other than English in serving the public, subject to the four-factor analysis and funding availability. Written notices of the right to receive competent and free oral interpretation of vital documents are being developed for translation into languages other than English for groups who have LEP that do not meet the five percent or 1,000 persons threshold, subject to the requirements of HRS Ch. 321C.

Through its Courts Eliminating Language Barriers (CELB) project, OEAC aims to improve the criminal justice system by providing communication access for LEP defendants and witnesses to help them successfully navigate the courts and criminal justice system, process information, make wise decisions, and understand and comply with court orders. OEAC will develop and provide LEP Defendant/Witness Information Brochures in English and eight non-English languages to inform defendants and witnesses of the role and use of the court interpreter in court proceedings – with the aim of making effective and efficient use of the court interpreters.

In addition, through its Providing Language Access in the Courts (PLAC) project, the Judiciary will focus on streamlining internal operational procedures and strengthening interpreter services under the Court Interpreter Certification Program in order to facilitate the provision of timely, competent, and free language services for LEP persons in the state courts. Criminal court forms/written information will be translated into Pacific Island languages determined to be of critical need in the courts, or languages that are so rare that no other viable means of providing language access exists. District Court Judges have identified specific forms/written information proposed for translation because said forms provide important information that is necessary for the criminal defendant to meaningfully participate in court proceedings and comply with court orders/judgments.

2. *Notice of Availability of Document Translation*

The Judiciary is also working to obtain “notice” language to attach to identified court support service’s documents translated into frequently encountered non-English languages. It is anticipated that the content of the notice will include the following: “If you need this document translated, please contact the Judiciary’s Language Access Coordinator by email at oeac@courts.state.hi.us or by telephone at 808-539-4860.”

D. NOTICE

It is the Judiciary’s goal that identified entry points and primary points of public contact have posted signage that informs populations with LEP of their right to free language services. Signage has been posted in various high traffic locations within the Circuit, District, Family and Rural Courts, including the Traffic Violations Bureau, Cashier’s Office, Legal Documents Branch, Adult Client Services Branch, and Customer Service Centers.

As stated above in Section V.A., in 2012, the Judiciary piloted multilingual language identification cards (Language ID Cards) distributed at Information Desks and Ho'okele Court Service Centers located in First Circuit courthouses. The cards were made available on the Judiciary's internet site on August 16, 2012. These activities were timed concurrently with the August 15-20, 2012, release of multilingual Welcome Banners at First Circuit courthouses to welcome court users in English and 14 non-English languages. Welcome Banners were posted in neighbor island circuit courthouses in Spring 2013. *See Attachment B Language Identification / Notice Materials.*

The Judiciary will continue an ongoing process of assessment to ensure appropriate signage is posted. In implementing this Language Access Plan (LAP), the Judiciary will take into account physical signage and special considerations so that interactions between the Judiciary and court customers with LEP can take place in a fairly private manner.

The Judiciary also provides rack cards at court support services and/or program centers notifying court customers with LEP that interpreters and document translations are available free of charge. As stated above in Section VI(C)(2), the Judiciary is working toward providing a notice to attach to court support documents that a court customer with LEP may need translated.

The Judiciary continues to explore alternative means of providing notice to individuals with LEP, such as:

- Posting notice of availability of language access services for court customers with LEP on the Judiciary's website in additional non-English languages, as determined by the four-factor analysis as discussed in Section III above.
- Developing an online language access services request form, fillable and printable by court customers with LEP, to present to Judiciary staff upon arrival when seeking court services.
- Promoting use of plain language in court informational materials and website content for readability and ease of understanding.

In August 2012, the Judiciary released its version of the revised (July 2012) language identification poster provided by the Hawai'i Office of Language Access (OLA) to instruct customers to contact the Judiciary if they have any questions or for information on interpretation services. The Judiciary language identification poster is readily available on OEAC's intranet page for printing in various sizes for posting and personal desk-side use. *See Attachment B Language Identification / Notice Materials.*

VII. LEP/LANGUAGE ACCESS DATA COLLECTION PROJECT

After assisting a court customer with LEP, Judiciary staff shall document the encounter on the *User Log-LEP/Language Services* form, which includes a User Guide (like a cheat sheet) to assist staff in accurately recording LEP encounters. Each section/office/department is responsible for compiling data on encounters with LEP court customers from *User Logs* into a *Quarterly Report-LEP/Language Services (by language)*, which must be submitted to OEAC. In turn, OEAC will compile the information into a comprehensive *Quarterly Report-LEP/Language Services* statewide report.

The language access reporting forms, together with instructions and training materials (sample scenarios and accompanying forms showing how to log the data), are available on the Judiciary Intranet, on the forms page and the EAC department page. *See Attachments F and G, EAC*

Intranet page, Language Access/Data Collection Reporting Tool, *User Log & Quarterly Report Form (Excel Format)*; and Language Access/Data Collection Reporting Tool Training Materials, *Scenarios, Blank Forms & Answer Sheets*.

VIII. STAFF TRAINING

A. LANGUAGE ACCESS PLAN (LAP)

The Judiciary recognizes that the training of its staff is an important component of working with populations that have LEP. All staff should understand the need to determine language needs of individuals who have LEP in a timely manner to reduce delay, frustration, and costs. Training also ensures that staff working across departments service individuals with LEP in a consistent and uniform manner.

Accordingly, in 2009, the Judiciary conducted initial training for court administrators, senior management members and staff statewide on its Language Access Plan (LAP). For the initial training, representatives from each First Circuit office were required to attend the train-the-trainer sessions in order to subsequently train their respective staff. As part of its training, reference material with the essential principles and procedures of the LAP was developed. The *Guide for Serving LEP Court Customers* is available to staff via the Judiciary's Intranet. See Attachment H, *Guide for Serving LEP Court Customers*.

The Judiciary has continued to provide refresher training on its LAP, as well as training for new employees, as follows:

- 2010 - Funding to travel became available in 2010 for the Office on Equality and Access to the Courts (OEAC) to conduct staff training on the neighbor islands on the LAP and LEP Data Collection Project. In June 2010, three 2-hour staff training sessions were conducted on the islands of Hawaii (Hilo and Kona), Kauai, and Maui. Between July and September 2010, OEAC conducted numerous refresher training sessions on the Judiciary's LAP for First Circuit staff working in the Honolulu, Ewa, Kaneohe, and Waianae courts. From April to July 2011, OEAC conducted staff training statewide on the telephonic interpreting service, completing 29 one-hour training sessions statewide in the train-the-trainer format.
- 2011 - Nine trainings on the LAP were held: two for judges (Circuit Court; Family Court); two staff trainings on the Big Island; one each for law clerks, the Strategic Planning Committee, and a joint Title VI Subcommittee; one refresher staff training on Oahu; and one staff training on Maui.
- 2012 – Seven trainings on the LAP were held: two for judges (District Court; Family Court); one each for ADLRO, Driver's Education, Kaneohe District Court, and Wahiawa District Court; one refresher training on Oahu.
- 2013 – Five trainings on the LAP have been held as of July 2013: Driver's Education; Juvenile Special Services; Kona (new staff); Maui judges; and Maui (new staff).

Due to the size and complexity of its workforce, the Judiciary is exploring alternative modes of training including:

- *Formal Training* – Face-to-face training designed for management, supervisors, and staff who are likely to encounter court customers with LEP, covering topics such as the

Judiciary's Language Access Plan (LAP), protocols for providing language services, and how to effectively work with interpreters.

- *Distance Learning* – Training by videoconference, teleconference, and interactive television systems designed to reach staff that is unable to attend formal training in person due to geographical barriers, budget constraints, and travel restrictions.
- *Computer-Based Training* – Computer-based, online training covering such topics as the Judiciary's LAP, protocols for providing language services, and how to effectively work with interpreters is tentatively scheduled for Spring 2014.
- *Informal Training* – Informal training provided by unit supervisors or trained staff on topics such as the Judiciary's LAP and commitment to providing meaningful access to court customers with LEP.

The Judiciary's Language Access Coordinator (LAC) will continue to work with court administrators and the respective training departments to determine the best method of delivering language access training to Judiciary staff. This process may include identifying trainers within each circuit who are willing to conduct language access trainings and coordinating trainings for Judiciary staff and bilingual volunteers and staff.

B. BILINGUAL VOLUNTEER STAFF

The Judiciary offered bilingual volunteer staff the opportunity to attend training conducted by the State Office of Language Access (OLA) to better understand their role as bilingual volunteer staff interpreters and ways to work more effectively in this capacity. In addition, the Judiciary is exploring the development of additional training for its bilingual volunteer staff modeled after OLA's "The Role of Bilingual Staff" and "Serving LEP Individuals through Interpreters" workshops. The goal is to develop a curriculum designed to provide basic training in interpreter ethics and confidentiality requirements related to providing language services.

IX. MONITORING AND UPDATING THE PLAN

To ensure continual improvement in the area of customer service for individuals with LEP, the Judiciary's Language Access Coordinator (LAC) will monitor interpreter/translation services and requests for persons with LEP, and update the Language Access Plan (LAP) every two years. The Judiciary will also, to the extent practicable, coordinate across programs, departments, and circuits, to more efficiently meet the needs of its court customers who have LEP. The Judiciary implemented an LEP/Language Access Data Collection Project that aims to collect data on every encounter court staff has with individuals with LEP. It is anticipated that the Data Collection Project will provide necessary information to assist the Judiciary to better determine the language needs of individuals with LEP who seek access to Judiciary programs, services, and activities.

X. DESIGNATION OF THE JUDICIARY LANGUAGE ACCESS COORDINATOR

The Program Director of Office on Equality and Access to the Courts (OEAC) is the designated Language Access Coordinator (LAC) for the Judiciary and is responsible for: (1) overseeing implementation and evaluation of the Language Access Plan (LAP); (2) revising the LAP, as necessary; (3) responding to inquires/comments/ complaints regarding the LAP and its implementation; and (4) training Judiciary staff on the LAP.

The LAC also works with other State departments and agencies to identify areas where coordination or collaboration would improve the efficiency with which language access services can be provided. In addition to participating in the State Language Access Coordinators meetings convened by the Hawai'i Office of Language Access, the LAC also participates in the Roundtable meetings convened by the Overcoming Barriers to Access to Justice Committee of the Access to Justice Commission (OBAJ Roundtable). The OBAJ Roundtable is comprised of invited entities working to reduce language barriers to access to justice and aims to facilitate collaboration and cooperation among its member groups.

XI. CONCLUSION

This Language Access Plan (LAP), developed in compliance with the mandates of Title VI and HRS Ch. 321C, memorializes the Judiciary's actions and initiatives to provide reasonable and meaningful access to individuals with LEP who seek access to Judiciary programs, services, and activities. For further information on this LAP, contact the Judiciary's Language Access Coordinator at 808-539-4860 or oeac@courts.state.hi.us.

Rodney A. Maile
Administrative Director of the Courts
Hawai'i State Judiciary

October 3, 2013
Date

ATTACHMENTS

Attachment A	Hawai'i State Judiciary, Public Contact Positions Survey Report
Attachment B	Language Identification / Notice Materials <ul style="list-style-type: none">· Language Access Policy Notice· Multilingual Notice of Availability of Language Services· Language ID Cards· If You Need An Interpreter Card· Multilingual Welcome Banner
Attachment C	Bilingual Volunteer Staff Questionnaire
Attachment D	Court Interpreter Registry
Attachment E	Hawai'i State Judiciary, Vital Documents Survey Report
Attachment F	EAC Intranet page
Attachment G	LEP/Language Access Data Collection Materials <ul style="list-style-type: none">· User Log-LEP/Language Services· Quarterly Report-LEP/Language Services (by language)· Language Access Reporting Tool-Instructions· Definitions, and Sample Forms and Scenarios
Attachment H	Guide for Serving LEP Court Customers