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SUPERIOR COURT OF FRESNO COUNTY

LIMITED ENGLISH PROFICIENCY (LEP) PLAN

I. Legal Basis and Purpose

This document serves as the plan for the Superior Court of Fresno County to provide to persons with Limited English Proficiency (LEP) services that are in compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.; 45 C.F.R. § 80.1 et seq.; and 28 C.F.R. § 42.101-42.112). The purpose of this plan is to provide a framework for the provision of timely and reasonable language assistance to LEP persons who come in contact with the Superior Court of Fresno County.

This LEP plan was developed to ensure meaningful access to court services for persons with limited English proficiency. Although court interpreters are provided for persons with a hearing loss, access services for them are covered under the Americans with Disabilities Act rather than Title VI of the Civil Rights Act, and therefore will not be addressed in this plan.

II. Needs Assessment

A. Statewide

The State of California provides court services to a wide range of people, including those who speak limited or no English. Service providers include the California Supreme Court, the Courts of Appeal and the Superior Courts of the 58 counties.

According to the Judicial Council of California’s Court Interpreter Data Collection System (CIDCS), which aggregates court interpreter usage data received from the California trial courts, the most frequently used languages for interpreters in California courts were (in descending order of frequency):

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

1 **B. Superior Court of Fresno County**

2 The Superior Court of Fresno County will make every effort to provide services
3 to all LEP persons. However, the following list shows the foreign languages that are most
4 frequently used in this court’s geographic area.

- 5 1. Spanish
- 6 2. Punjabi
- 7 3. Hmong
- 8 4. Lao
- 9 5. Khmer/Cambodian

10 **III. Language Assistance Resources**

11 **A. Interpreters Used in the Courtroom**

12 **1. Providing Interpreters in the Courtroom**

13 Providing spoken-language interpreters in court proceedings are based in
14 whole or in part on statutory and case law. These are set out in Attachment A. In the
15 Superior Court of Fresno County, interpreters will be provided at no cost to court
16 customers who need such assistance under the following circumstances:

- 17 • For litigants and witnesses in criminal hearings;
- 18 • For litigants and witnesses in juvenile hearings;
- 19 • For litigants and witnesses in hearings involving domestic violence and elder
20 abuse, family law and child support cases, to the extent that funding is
21 provided; and,
- 22 • For litigants who need assistance when using family court services, to the
23 extent that funding is provided.

24 Responsibility for the cost for spoken-language interpreters for litigants and
25 witnesses in other civil proceedings will be determined at the discretion of the
26 officiating judge. Additionally, courts may use interpreters who are providing
27 mandated interpreting services for issues such as criminal or juvenile cases for
28 incidental use in civil courtrooms. The Superior Court of Fresno County recognizes
the significant benefits to both the public and the court by providing interpreters in
civil cases and will attempt whenever possible to provide such interpreters through
incidental use.

1 Effective January 1, 2015. AB 1657 repeals Evidence Code 755, section which relates to
2 provision of interpreters in domestic violence cases, and adds two new statutes (Evid. Code, § 756,
3 and Gov. Code, § 68092.1), which authorize courts to provide interpreters free of charge to litigants
4 in civil matters without regard to income, and set the priorities in which to do so.

5 AB 1657 does not change the existing law which requires a court to provide an interpreter in
6 criminal and traffic infraction cases, minors in juvenile delinquency cases, and minors and parents in
7 juvenile dependency cases, as well as in certain civil cases (such as mental competency hearings
8 where the court has appointed counsel). Courts are also required to provide an interpreter for
9 witnesses in all criminal, traffic, and juvenile cases. AB 1657 does not require a court to divert
10 resources needed to meet current mandated cases to cover this new law. Instead, AB1657 authorizes
11 courts to provide interpreters in civil matters in the following priority order:

- 12 • Protective order sought in family law domestic violence cases, in elder or dependent
13 adult physical abuse or neglect cases, or in civil harassment cases under Code of Civil
14 Procedure section 527.6(w)
- 15 • Actions and proceedings relating to unlawful detainer
- 16 • Actions and proceedings to terminate parental rights
- 17 • Actions and proceedings relating to conservatorship or guardianship, including the
18 appointment or termination of a probate guardian or conservator
- 19 • Actions and proceedings by a parent to obtain sole legal or physical custody of a child
20 or rights to visitation
- 21 • Elder or dependent adult abuse cases not involving physical abuse or neglect, or all
22 other civil harassment proceedings under Code of Civil Procedure section 527.6
- 23 • All other actions and proceedings related to family law (i.e., family law cases not
24 involving domestic violence, sole legal or physical custody, or visitation).
- 25 • All other civil actions or proceedings

26 Video Remote Interpreting (VRI) offered by Fresno Superior Court was established
27 as another method to provide access for LEP individuals. VRI allows interpreters to
28 interpret from another location by using specialized remote video equipment.

1 **Determining the Need for an Interpreter in the Courtroom**

2 The Superior Court of Fresno County may determine whether an LEP court
3 customer needs an interpreter for a court hearing in various ways.

4 The need for a court interpreter may be identified prior to a court proceeding
5 by the LEP person or on the LEP person’s behalf by counter staff, self-help center
6 staff, family court services, or outside justice partners such as probation/parole
7 officers, attorneys, correctional facilities and law enforcement.

8 Also, the judge may determine that it is appropriate to provide an interpreter
9 for a court matter. California’s Standards of Judicial Administration offer instruction
10 to judges for determining whether an interpreter is needed. Section 2.10 provides that
11 an “interpreter is needed if, after an examination of the party or a witness, the court
12 concludes that: (1) the party cannot understand and speak English well enough to
13 participate fully in the proceedings and to assist counsel, or (2) the witness cannot
14 speak English so as to be understood directly by counsel, court, and jury.” The court
15 is directed to examine the party or witness “on the record to determine whether an
16 interpreter is needed if: (1) a party or counsel requests such examination or (2) it
17 appears to the court that the person may not understand or speak English well enough
18 to participate fully in the proceedings.”

19 To determine if an interpreter is needed, standard 2.10(c) provides that “the
20 court should normally ask questions on the following: (1) identification (for
21 example: name, address, birth date, age, place of birth); (2) active vocabulary in
22 vernacular English (for example: ‘How did you come to the court today?’ ‘What kind
23 of work do you do?’ ‘Where did you go to school?’ ‘What was the highest grade you
24 completed?’ ‘Describe what you see in the courtroom.’ ‘What have you eaten today?’
25 Questions should be phrased to avoid ‘yes’ or ‘no’ replies; (3) the court proceedings
26 (for example: the nature of the charge or the type of case before the court), the
27 purpose of the proceedings and function of the court, the rights of a party or criminal
28 defendant, and the responsibilities of a witness.”

 Standard 2.10(d) calls on the court to state its conclusion on the record
regarding the need for an interpreter. “The file in the case should be clearly marked
and data entered electronically when appropriate by court personnel to ensure that an
interpreter will be present when needed in any subsequent proceeding.”

 Many people who need an interpreter will not request one because they do not
realize that interpreters are available or because they do not recognize the level of
English proficiency or communication skills needed to understand the court

1 proceeding. The court does not have funding to provide interpreters for non-
2 mandated proceedings. However, the court can provide some assistance within
3 existing funding restrictions and will endeavor to do so for non-mandated
4 proceedings.

5 In a case where the court is mandated to provide an interpreter, but one is not
6 available at the time of the proceeding, even after the court has made all reasonable
7 efforts to locate one, as previously outlined in this plan, the case will be postponed
8 and continued on a date when an interpreter can be provided. A continuance form
9 translated into several frequently used languages is given to the defendant in their
10 primary language with the future date and time.

11 When an interpreter is unavailable for a case in which the court is not
12 mandated to provide one, the court takes the following actions. The court contacts
13 the Interpreters' Office to check on the availability of an interpreter. If none are
14 available to assist in the proceeding an interpreter may be sent for a short period of
15 time to inform the parties of the continuance, and to explain the need to provide their
16 own interpreter. If no interpreter is available, a continuance form translated into
17 several frequently used languages is given to the defendant in their language with the
18 future date and time.

19 **2. Court Interpreter Qualifications**

20 The Superior Court of Fresno County hires interpreters for courtroom
21 hearings in compliance with the rules and practices set forth by Government Code
22 section 68561 and California Rules of Court, rule 2.893. The Judicial Council
23 maintains a statewide roster of certified and registered interpreters who may work in
24 the courts. This roster is available to court staff and the public on the internet at
25 *<http://www.courts.ca.gov/3796.htm>*

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

1 the rule, is designated by the judge as eligible to interpret in a criminal or juvenile
2 delinquency proceeding for a period of six months.

3
4 **B. Language Services Outside the Courtroom**

5 The Superior Court of Fresno County is also responsible for taking reasonable steps
6 to ensure that LEP individuals have meaningful access to services outside the courtroom.
7 This is perhaps the most challenging situation facing court staff, because in most situations
8 they are charged with assisting LEP individuals without an interpreter present. LEP
9 individuals may come in contact with court personnel via the phone, the public counter,
10 public hallways, correspondence, or other means.

11 The two most common points of service outside the courtroom are at the court's
12 public counters and self-help center. Bilingual assistance is provided at the public counters
13 by the placement of bilingual staff as is practical. If staff members need assistance
14 communicating with customers, they may call on other bilingual staff from elsewhere in the
15 court. The court maintains a list of bilingual staff available to help in these situations. The
16 individuals on the list are tested to confirm fluency in their language.

17 The court's self-help center recruits and employs staff bilingual in a number of
18 languages to provide self-represented litigants with assistance in understanding and
19 reviewing necessary forms. The Better Business Bureau, the court's contractor for small
20 claims and civil advisory services, provides appointments in Spanish. The Marjaree Mason
21 Center (MMC) offers similar onsite advocacy services in Spanish to court users involved in
22 domestic violence cases. The MMC can refer court users who need other languages to its
23 administrative offices located within walking distance of the courthouse.

24 Alternative Dispute Resolution (ADR) is an increasingly popular option that allows
25 people to resolve disputes outside of court in a cooperative manner. ADR has been gradually
26 evolving within the Fresno Superior Court for several years. ADR staff provides assistance in
27 Spanish to LEP persons. ADR Panelists which include volunteer settlement officers,
28 protoms, private mediators and case evaluators provide assistance in Spanish, French and
29 Polish languages to LEP persons.

30 Additionally, the Court contracts with the Better Business Bureau (BBB) to provide
31 free or low cost mediation services for self-represented litigants or those unable to afford a
32 private mediator. The grant funding for this project is through the Dispute Resolution
33 Programs Act (DRPA). The BBB provides mediation for small claims, landlord/tenant,
34 business, consumer/merchant, harassment, marital dissolution and neighborhood disputes.

1 They provide assistance in Spanish and Ukrainian to LEP persons. Contact information for
2 the BBB is (559) 256-6300 – (800) 675-8118, ext. 300 (toll free) - www.bbbmediation.org

3 Due to the high number of Spanish-speaking rural residents with limited English
4 proficiency, the Fresno Superior Court provides free weekly Remote Video Proceedings
5 (RVP) for traffic matters from the rural communities of Coalinga and Mendota. In Fresno
6 County, this free service is now available to motorists cited 15 miles or more from
7 downtown Fresno. Court users can also request interpreter assistance in other languages
8 when they request RVP.

9 Court interpreters are also called upon to provide assistance to LEP individuals with
10 such work which includes, but is not necessarily limited to, simultaneous or consecutive
11 interpretation of court proceedings, court-ordered programs for which an interpreter is
12 required such as: psychiatric evaluations; interviews with defendants and witnesses; sight
13 translation of court documents; probate investigations; mediation sessions and child-custody
14 evaluations or other interpretive services as required by the court such as assistance at the
15 public counter, via the phone, public hallways, or other means of oral interpretation and
16 sight translation. These services may be limited in scope depending on staffing and
17 availability, but can generally be arranged.

18 Providing language services outside the courtroom entails both daily communications
19 and interactions between court staff and LEP individuals to provide accessibility of court
20 services, such as self-help and mediation services to LEP court users.

21 To facilitate communication between LEP individuals and court staff, the Superior
22 Court of Fresno County uses the following resources to the degree that resources are
23 available:

- 24 • Court interpreters, to the extent permitted under the active memorandum of
25 understanding or independent interpreter contract;
- 26 • Bilingual employees;
- 27 • Bilingual volunteers;
- 28 • A court website with key pages translated into Spanish;
- “I Speak” cards, to identify the individual’s primary language;

1 To provide linguistically accessible services for LEP individuals, the Superior Court
2 of Fresno County provides the following:

- 3 • Self-help center services that include bilingual self-help center staff and
4 telephonic language assistance that provide self-help services to LEP persons in
5 their primary language;
- 6 • Bilingual family court services mediators for custody and visitation matters;
- 7 • Written informational and educational materials and instructions in Spanish.

8 **C. Translated Forms and Documents**

9 The California courts understand the importance of translating forms and
10 documents so that LEP individuals have a greater access to the courts' services. The
11 Superior Court of Fresno County currently uses Judicial Council forms and
12 instructional materials translated into commonly used languages.

- 13 • These translated forms are available at the court's website for internal use and are
14 available to the public at www.courtinfo.ca.gov/selfhelp/languages as well as at
15 the court's self-help center.
- 16 • The court also has access to instructional materials that have been translated by
17 other courts at www.courtinfo.ca.gov/programs/equalaccess/trans.htm.
- 18 • The court has translated the following documents into Spanish:
- 19 • Simplified Financial Statement and, Income and Expense Declaration
- 20 • These documents will be located at
21 [athttp://www.fresno.courts.ca.gov/forms/form_instructions_packets_spanish.php](http://www.fresno.courts.ca.gov/forms/form_instructions_packets_spanish.php).

22 Additionally, the court and the Better Business Bureau have collaborated to
23 translate instructions for small claims and civil case forms. These can be found on
24 the BBB's website, www.fresnosmallclaimsadvisor.org.

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

27 **IV. Court Staff and Volunteer Recruitment**

28 **A. Recruitment of Bilingual Staff for Language Access**

The Superior Court of Fresno County is an equal opportunity employer and
recruits and hires bilingual staff to serve its LEP constituents. Primary examples
include but are not limited to:

- Court interpreters to serve as permanent employees of the court;

- Bilingual staff to serve at public counters;
- Bilingual staff in the court's self-help centers; and,
- Bilingual staff who are on call to assist with contacts from LEP individuals, as needed.

B. Recruitment of Volunteers for Language Access

The court also recruits and uses volunteers to assist with language access to serve as interpreter trainees by helping LEP individuals in areas outside of the courtroom, to develop skills in preparing for the certified interpreter examination.

V. Judicial and Staff Training

The Superior Court of Fresno County is committed to providing LEP training opportunities for all judicial officers and staff members. Training and learning opportunities currently offered by the Superior Court of Fresno County will be expanded or continued as needed. Those opportunities include:

- Interpreter Coordinator Training;
- Diversity Training;
- Cultural Competency Training;
- LEP Plan Training;
- Statewide conferences on language access or conferences that include sessions dedicated to topics on language access;
- New employee orientation training; and;
- Judicial officer orientation on the use of court interpreters and language competency.

VI. Public Outreach and Education

To communicate with the court's LEP constituents on various legal issues of importance to the community and to make them aware of services available to all language speakers, the Superior Court of Fresno County provides community outreach and education and seeks input from its LEP constituency to further improve services. Outreach and education efforts include immediate online translation of the court's website and ongoing outreach by judicial officers and court management staff to diverse community organizations throughout Fresno County.

1 **VII. Public Notification and Evaluation of LEP Plan**

2 **A. LEP Plan Approval and Notification**

3 The Superior Court of Fresno County’s LEP plan is subject to
4 approval by the presiding judge and court executive officer. Upon approval, a copy
5 will be forwarded to the Judicial Council, LEP Coordinator. Any revisions to the
6 plan will be submitted to the presiding judge and court executive officer for approval,
7 and then forwarded to the Judicial Council. Copies of Superior Court of Fresno
8 County’s LEP plan will be provided to the public on request. In addition, the court
9 will post this plan on its public website, and the Judicial Council will post a link to it
10 on the Judicial Council’s public website at *www.courts.ca.gov*.

11 **B. Annual Evaluation of the LEP Plan**

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

15 Each year the court’s LEP Plan Coordinator will review the
16 effectiveness of the court’s LEP plan and update it as necessary. The evaluation will
17 include identification of any problem areas and development of corrective action
18 strategies. Elements of the evaluation will include:

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

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C. Trial Court LEP Plan Coordinator:

Satvinder Franco
Interpreter Coordinator
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D. Judicial Council LEP Plan Manager:

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E. LEP Plan Effective date: December 1, 2016

F. Approved by:

Presiding Judge: [Karl M. ...] Date: [11/30/2016]

Court Executive Officer: [Judy S. ...] Date: [11/30/2016]

**Citations on the Use and Payment
of Interpreters in Court Proceedings**

Policies for providing interpreters in court proceedings are based on the following Constitutional provisions, case law, and statutory mandates:

- Article 1, section 14 of the California Constitution provides that a “person unable to understand English who is charged with a crime has the right to an interpreter throughout the proceedings.” There is no corresponding right in civil proceedings. *Jara v. Municipal Court* (1978) 21 Cal.3d 181 held that non-English speaking indigent civil litigants do not have a right to a court interpreter appointed at public expense. However, the court does have the inherent right to waive filing fees if justice so requires.

- *Jara* let stand an earlier opinion, *Gardiana v. Small Claims Court* (1976) 59 Cal.App.3d 412, which held that in small claims proceedings, the court has a statutory duty to appoint an interpreter free of charge if it finds the litigant unable to speak or understand English. *Jara* reasoned that because attorneys are not permitted in small claims proceedings, non-English-speaking small claims litigants without an interpreter are “effectively barred from access to the small claims proceedings.” (*Jara*, 21 Cal.3d at 185.)(See also the two bulleted items below regarding interpreters in small claims matters.)

- Witnesses with limited English proficiency must also be provided with an interpreter. Under Evidence Code section 752, the court must appoint an interpreter whenever “a witness is incapable of understanding the English language or is incapable of expressing himself or herself in the English language so as to be understood directly by counsel, court, and jury. . . .” Appointment of a translator is also required whenever “the written characters in a writing offered in evidence are incapable of being deciphered or understood directly.” (Evid. Code, § 753.)

- In small claims proceedings, if the court determines that a litigant does not speak or understand English sufficiently to comprehend the proceedings or give testimony and needs assistance in doing so, the court may permit another individual (other than an attorney) to assist that party. (Code Civ. Proc., § 116.550(a).) If a competent interpreter is not available at the first hearing of the case, the small claims court shall postpone the hearing one time only to allow the party the opportunity to obtain another individual to assist that party. Any additional continuances shall be at the court’s discretion (Code Civ. Proc., § 116.550(d)). Rule 3.55 of the California Rules of Court provides that any costs for a court-appointed interpreter in a small claims action must be waived if an application to proceed in forma pauperis is granted.

1 To the extent required by other state or federal laws, the Judicial Council shall reimburse
2 courts for court interpreter services provided in civil actions and proceedings to any party who is
3 present in court and who does not proficiently speak or understand the English language for the
4 purpose of interpreting the proceedings in a language the party understands, and assisting
5 communications between the party, his or her attorney, and the court. (Evid. Code §756(a)) If
6 sufficient funds are not appropriated to provide an interpreter to every party that meets the
7 standard of eligibility, court interpreter services in civil cases reimbursed by the Judicial Council
8 shall be prioritized by case type as set out below. (Evid. Code §756(b))

- 9 • 1 - Actions and proceedings under the Domestic Violence Prevention Act, parentage
10 actions or dissolution, separation or nullity actions where a protective order has been
11 granted or is being sought, harassment actions pursuant to CCP §527.6(w), and actions
12 and proceedings for physical abuse or neglect under the Elder Abuse and Dependent
13 Adult Civil Protection Act.
- 14 • 2 - Actions and proceedings relating to unlawful detainer.
- 15 • 3 - Actions and proceedings to terminate parental rights.
- 16 • 4 - Actions and proceedings relating to conservatorship or guardianship.
- 17 • 5 - Actions and proceedings by a parent to obtain sole legal or physical custody of a child
18 or rights to visitation.
- 19 • 6 - All other actions and proceedings under CCP §527.6 or the Elder Abuse and
20 Dependent Adult Civil Protection Act.
- 21 • 7 - All other actions and proceedings related to family law.
- 22 • 8 - All other civil actions or proceedings. (Evid. Code §756(b)(1)-(8))

23 (c)(1) If funds are not available to provide an interpreter to every party that meets the standard of
24 eligibility, preference shall be given for parties proceeding in forma pauperis pursuant to Gov.
25 Code §68631 in any action or proceeding described above at 3, 4, 5, 6, 7, or 8 above. (Evid.
26 Code §756(c)(1)). The Court may provide an interpreter to a party outside the priority order set
27 out above when a qualified interpreter is present and available at the court location and no higher
28 priority action that meets the standard of eligibility is taking place at that location during the
period of time for which the interpreter has already been compensated. (Evid. Code §756(c)(2)).
A party will not be charged for a fee for the provision of a court interpreter. (Evid. Code
§756(d)).