



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: January 22, 2015

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**Title**

California's Language Access Plan: *Strategic Plan for Language Access in the California Courts*

**Agenda Item Type**

Action Required

**Effective Date**

January 22, 2015

**Rules, Forms, Standards, or Statutes Affected**

N/A

**Date of Report**

January 6, 2015

**Recommended by**

Joint Working Group for California's  
Language Access Plan  
Hon. Maria P. Rivera, Cochair, and Member  
of the Advisory Committee on Providing  
Access and Fairness  
Hon. Manuel J. Covarrubias, Cochair, and  
Member of the Court Interpreters  
Advisory Panel

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## Executive Summary

The Joint Working Group for California's Language Access Plan recommends that the Judicial Council adopt the *Strategic Plan for Language Access in the California Courts* (Language Access Plan). The plan is the result of an 18-month effort that included public hearings and public comment, including a 60-day period for submission of formal public comments on a draft plan. The final plan provides recommendations, guidance, and a consistent statewide approach to ensure language access to all limited English proficient (LEP) court users in California. Having completed its task, the Joint Working Group also recommends immediate formation of two groups that would report to the Judicial Council's Executive and Planning Committee: (1) a Language Access Implementation Task Force, which would develop and recommend the methods and means for implementing the Language Access Plan in all 58 counties, as well as coordinate with related advisory groups and Judicial Council staff on implementation efforts; and

(2) a translation committee, which would oversee translation protocols for Judicial Council forms, written materials, and audiovisual tools.

## **Recommendation**

The Joint Working Group for California's Language Access Plan recommends that the Judicial Council, effective January 22, 2015:

1. Adopt the *Strategic Plan for Language Access in the California Courts*;
2. Recommend to the Chief Justice the composition and establishment of a Language Access Implementation Task Force, to be overseen by the Executive and Planning Committee; and
3. Direct staff to report to the Executive and Planning Committee regarding the establishment of a translation committee to oversee translation protocols for Judicial Council forms, written materials, and audiovisual tools.

## **Previous Council Action**

The Joint Working Group for California's Language Access Plan includes members of both the Court Interpreters Advisory Panel (CIAP) and the Advisory Committee on Providing Access and Fairness, along with other stakeholders. In June 2013, the Chief Justice appointed the working group to develop a comprehensive statewide language access plan that will serve California's LEP court users. In October 2013, the Joint Working Group provided an informational presentation to the council to update members on the working group's goals, timeline, and anticipated steps in the development of a comprehensive Language Access Plan (LAP).<sup>1</sup> In August 2014, the Joint Working Group provided an additional informational presentation<sup>2</sup> to the council regarding the formation of a draft plan. The status update in August included a description of the formal public comment process (from July 31 to September 29, 2014) that was then underway, and the Joint Working Group's intent to prepare and submit a final plan following the formal public comment process.

## **Rationale for Recommendation**

California is the most diverse state in the country, with approximately 7 million LEP residents and potential court users dispersed over a vast geographic area and speaking more than 200 languages. Without proper language assistance, LEP court users may be excluded from meaningful participation in the judicial process. Many LEP litigants appear without an attorney and without a qualified interpreter, and courts have had to rely on friends and/or family members

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<sup>1</sup> California's Language Access Plan: Status Report, Item J for the October 25, 2013 Judicial Council business meeting, available at [www.courts.ca.gov/documents/jc-20131025-itemJ.pdf](http://www.courts.ca.gov/documents/jc-20131025-itemJ.pdf).

<sup>2</sup> California's Language Access Plan: Update on Development of the *Strategic Plan for Language Access in the California Courts*, Item G for the August 22, 2014 Judicial Council business meeting, available at [www.courts.ca.gov/documents/jc-20140822-itemG.pdf](http://www.courts.ca.gov/documents/jc-20140822-itemG.pdf).

of the court user—individuals who generally do not understand legal terminology or court procedures—to act as the court interpreter. Further, LEP court users’ language needs are not limited to the courtroom; the need for language assistance extends to all points of contact with the public, including clerks’ offices, self-help centers, court-connected clinics, and beyond.

The California judicial branch has long supported the need for language access services in the courts. However, the branch has not adopted a comprehensive plan that provides recommendations, guidance, and a consistent statewide approach to ensure language access to *all* LEP court users. The *Strategic Plan for Language Access in the California Courts* (Language Access Plan) achieves this goal and aligns with the U.S. Department of Justice’s recommendations for California to expand its language access efforts. It also aligns with recent legislation in California (Assem. Bill 1657; Stats. 2014, ch. 721) that sets out priorities for the provision of court interpreters in civil proceedings. Extensive language assistance has been and continues to be a priority in the state’s courts, including providing court interpreters for many types of cases.<sup>3</sup>

In August 2013, the Chief Justice announced her vision for improving access to justice for Californians through an effort called “Access 3D” that involves physical, remote, and equal access to the justice system. Efforts to enhance language access for LEP court users are a critical component of this vision.

The Joint Working Group’s objective for the Language Access Plan is to provide a comprehensive set of recommendations that create a branchwide approach to providing language access services to court users throughout the state while accommodating an individual court’s need for flexibility in implementing the plan recommendations. A primary goal of the plan is to develop and support a culture in which language access is considered a core court service in every courthouse.

This report recommends that the Judicial Council recommend to the Chief Justice the composition and establishment of a Language Access Implementation Task Force, which will have a three- to five-year charge and be overseen by the Executive and Planning Committee. As part of its charge, the Implementation Task Force will develop an implementation plan for presentation to the Judicial Council and identify the costs associated with implementing the plan’s recommendations. The Task Force will coordinate with related advisory groups and Judicial Council staff on plan implementation and have the flexibility to monitor and adjust

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<sup>3</sup> The Legislature provides funding to the courts for interpreter services in a special item of the judicial branch budget (Program 45.45 of the Trial Court Trust Fund). At its public meeting on January 23, 2014, the Judicial Council approved recommendations that explicitly allow expenses for court interpreter funds from 45.45 to include costs for all appearances in domestic violence cases, family law cases in which there is a domestic violence issue, and elder abuse cases, as well as interpreters for indigent parties in civil cases. At its public meeting on December 12, 2014, the council modified the action, approving expenditure of these funds consistent with the priorities and preferences set forth in AB 1657. (For the full text of AB 1657, see [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB1657&search\\_keywords=.](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1657&search_keywords=))

implementation plans based on feasibility and available resources. The Task Force will also establish the necessary systems for monitoring compliance with the plan, and develop a single form, available statewide, on which court users may register a complaint about the provision of, or the failure to provide, language access (see Recommendations #60–62).

This report further recommends that the Judicial Council direct staff to report to the Executive and Planning Committee regarding the establishment of a translation committee to oversee translation protocols for Judicial Council forms, written materials, and audiovisual tools. The responsibilities of the translation committee will be to develop and formalize a translation protocol for Judicial Council translation of forms, written materials, and audiovisual tools, and will also include identifying qualifications for translators, and the prioritization, coordination, and oversight of the translation of materials (see Recommendation #36).

### **Comments, Alternatives Considered, and Policy Implications**

In February and March 2014, the Joint Working Group held three public hearings across the state.<sup>4</sup> Major themes that emerged during the public hearing process are summarized in the Joint Working Group's August 2014 status report to the council.<sup>5</sup> Following the public hearing process, the Joint Working Group prepared a draft Language Access Plan, which was posted from July 31 through September 29, 2014, on the California Courts website for public comment.

#### **Formal public comments**

Twenty-one separate public comments, consisting of 195 pages, were submitted regarding the draft Language Access Plan during the formal public comment period. Commentators included:

- 41 legal services and community organizations;
- ACLU of California and other community organizations;
- California Association of Family Court Services Directors;
- California Commission on Access to Justice;
- California Federation of Interpreters;
- California Rural Legal Assistance;
- California State Bar's Standing Committee on the Delivery of Legal Services;
- Indigenous language interpreters and community organizations;
- Individual superior courts (Alameda, Fresno, Los Angeles, Orange, Placer, and Ventura)
- Legal Aid Association of California; and
- Two attorneys, one court commissioner, and one court interpreter.

All formal public comments received were posted in their entirety to the LAP Joint Working Group's web page. One commentator expressed the position that she did not agree with the

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<sup>4</sup> After the hearings, oral and written comments, as well as prepared presentations from panelists, were posted to the Joint Working Group's web page, located at [www.courts.ca.gov/LAP.htm](http://www.courts.ca.gov/LAP.htm).

<sup>5</sup> California's Language Access Plan: Update on Development of the *Strategic Plan for Language Access in the California Courts*, available at [www.courts.ca.gov/documents/jc-20140822-itemG.pdf](http://www.courts.ca.gov/documents/jc-20140822-itemG.pdf).

proposed plan. Two commentators agreed with the proposed plan, one did not express an opinion, and the remainder agreed with the plan if modified.

Major themes that emerged from the formal public comments are summarized below:

- Some individuals commented that greater specificity is needed for certain terms used in the Language Access Plan; for example, what constitutes “court-ordered, court-operated” programs, services, or events.
- Commentators, including individual courts, expressed concern that courts may not have an adequate (or any) case management system that is currently able to collect and track data on LEP court users.
- Legal services providers and others raised concerns about the phasing-in of civil case types for which qualified interpreters would be provided, including a request that indigency be a factor for prioritization. Reference to recent legislation, not yet in place at the time of release of the draft plan, was also made.
- Many suggested that the use of family and friends to interpret, especially minors, should be avoided because those individuals are not qualified to interpret court proceedings, do not understand legal terminology, and are not trained in necessary interpreter ethics and the need to be impartial.
- Groups, including the California Federation of Interpreters and ACLU, proposed that the California judicial branch should establish clear guidelines and standards for the use of video remote interpreting (VRI) to ensure due process and proper application. A number of courts, and other stakeholders, were positive about VRI and supportive of its role in expanding language access, particularly in languages other than Spanish.
- Practitioners expressed the view that Family Court Services mediation is an essential and mandatory court service in all child custody disputes and should be included in the initial phase-in of civil expansion to provide court interpreters in civil matters.
- Legal services organizations requested that specific recommendations addressing compliance with the Language Access Plan—such as the implementation committee establishing necessary systems for monitoring compliance, and the development of a complaint process for language access services—be prioritized for more immediate implementation. They also asked that the body charged with implementation of the plan include key language access stakeholders.
- Some commentators, including court administrators, expressed concern that a population threshold that would require translations of written or audiovisual materials into a community’s top five languages would be overly burdensome on courts. Other commentators, such as legal services agencies and community groups, requested a more expansive threshold that would increase the number of languages for translations.
- Court administrators in particular provided comments on the critical need for increased funding for the judicial branch, concerned that, without additional funds, compliance with the language access plan would present difficulties or lead to a reduction of court services in other areas.

Attachment 2 to this report is a public comment chart including the Joint Working Group's responses to individual comments.<sup>6</sup> As described in the comment chart and below in this report, the Joint Working Group reviewed all public comment and incorporated numerous suggested changes into the final plan.

### **Alternatives considered**

The Joint Working Group met in person on October 21 and 22, 2014, to discuss public comment and revisions to the draft Language Access Plan. Several of the suggestions made by commentators were included in the final plan. The working group then held a final meeting by teleconference on December 5, 2014, to discuss final changes to the plan and approved the attached plan for submission to the Judicial Council. The major areas that the Joint Working Group discussed at these meetings, along with subsequent changes made to the plan, are summarized below:

- *Tone* — The Joint Working Group agreed that the tone of the Language Access Plan needed to be revised to not focus so much on challenges or constraints experienced by the courts, but to instead focus on future opportunities and the need to make language access a part of core court services.
- *Implementation* — The Joint Working Group added language to the front of the plan regarding the formation of a Language Access Implementation Task Force (see also discussion below in the section regarding Implementation Requirements), and clarified that the membership of the task force should include language access stakeholders from both inside and outside the court (including, but not limited to, judicial officers, court administrators, court interpreters, legal services providers, and attorneys that commonly work with LEP court users). The working group also agreed with commentators that specific recommendations addressing compliance with the plan, such as establishing necessary systems for monitoring compliance, and development of a complaint process for language access services, should be prioritized and were moved to Phase 1.
- *Definitions/Concepts* — The Joint Working Group agreed with commentators that more clarity was needed for concepts utilized throughout the plan, and a section identifying and explaining major plan concepts was added to the front of the document.
- *Civil expansion* — The Joint Working Group agreed that Recommendation #8 regarding civil expansion should conform to language in Evidence Code section 756, which is effective January 1, 2015,<sup>7</sup> and further, that the goal should be to provide court interpreters in all civil matters by the end of Phase 2 (i.e., by the end of 2017). Family Court Services mediation was also added to Recommendation #8 as a priority for providing court interpreters (also within Phases 1 and 2).

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<sup>6</sup> For ease of understanding, all commentators who submitted formal public comment on the draft Language Access Plan are listed alphabetically in the first four pages of Attachment 2, and then each commentator's specific comments on plan provisions are broken up and listed in the order that the provisions appeared in the draft plan (e.g., Goal 1, Goal 2, etc.).

<sup>7</sup> Evidence Code section 756 provides a prioritization for civil case types in the event that a court does not have access to sufficient resources to handle all civil matters (see Attachment 1, Appendix H).

- *Use of friends and family to interpret* — The Joint Working Group agreed with commentators that the use of family and friends, especially minors, to provide court interpretation should be avoided for the reasons cited above. The consensus was to delete former Recommendation #17 regarding use of family and friends to interpret, since it was duplicative of the provisional qualification process. The recommendation prohibiting the use of minors to interpret for court proceedings (#23) was also clarified.
- *Court-ordered programs* — The Joint Working Group added Recommendation #11 to clarify that LEP court users should not be ordered to any court-ordered programs that cannot provide appropriate language accessible services, and that courts must work with LEP court users, including, if applicable, alternative and language accessible programs, to ensure their ability to meet the requirements of court orders.
- *Video remote interpreting (VRI)* — The Joint Working Group discussed VRI and agreed it was important to add language to the plan stating that the quality of interpretation is of paramount importance and should never be compromised. Two new recommendations were added: Recommendation #14 states that the Implementation Task Force will establish minimum technology requirements for remote interpreting; and Recommendation #16 states that the Judicial Council should conduct a VRI pilot project, in alignment with the judicial branch’s Tactical Plan for Technology 2014–2016, to collect data on the impacts of VRI usage and provide a cost-benefit analysis.
- *Phasing* — A number of the recommendations were discussed as being of greater priority and were moved to an earlier phase. For example, Recommendation #61 (former #63), which requires the Implementation Task Force to establish systems to monitor compliance and provide plan oversight, was moved up to Phase 1.
- *Waiver* — The working group also clarified the recommendation regarding waiver (Recommendation #75) to help the Implementation Task Force with development of appropriate standards for waiver (including that the policy shall reflect the expectation that waivers will rarely be invoked in light of access to free interpreter services).

### **Policy implications**

The Language Access Plan proposes a measured, incremental approach to expand and enhance language access in the California courts for California’s 7 million LEP residents and potential court users. California has over 1,800 highly trained certified and registered court interpreters, significantly more than any other state, who provide 215,000 interpreter service days annually at a cost of over \$92 million each year.<sup>8</sup> Expansion of language access services will by necessity require creative solutions and securing additional court funding.

The plan includes eight goals and 75 recommendations designed to address and meet the various language access needs of LEP court users at all points of contact with the courts. In preparing the final plan, the Joint Working Group was very deliberate in its use of the terms “will,” “must,” and “should” throughout the recommendations of the plan, and has made further revisions to

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<sup>8</sup> Total statewide court interpreter expenditures incurred during 2013–2014 that are eligible to be reimbursed from the Trial Court Trust Fund (TCTF) Program 45.45 (court interpreter) totaled \$92,471,280.

clarify the wording of individual recommendations. Where the recommendations addressed policy statements on language access, or addressed activities that are required by law or are under the power and control of the Judicial Council, the terms “must” and “will” were generally used. Where the Joint Working Group made recommendations for local courts to take certain actions to expand language access at the local level, the term “should” was utilized.

Each LAP goal has an issue description, which captures the concerns heard at listening sessions conducted at the beginning of 2014, at the public hearings, or through public comment, followed by recommendations that outline strategies for providing language accessibility.

**Goals:**

1. Improve Early Identification of and Data Collection on Language Needs
2. Provide Qualified Language Access Services in All Judicial Proceedings
3. Provide Language Access Services at All Points of Contact Outside Judicial Proceedings
4. Provide High Quality Multilingual Translation and Signage
5. Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers
6. Provide Judicial Branch Training on Language Access Policies and Procedures
7. Conduct Outreach to Communities Regarding Language Access Services
8. Identify Systems, Funding, and Legislation Necessary for Plan Implementation and Language Access Management

One of the plan’s key goals (Goal 2) is to ensure that, “By 2017, and beginning immediately where resources permit, qualified interpreters will be provided in the California courts to LEP court users in all courtroom proceedings and, by 2020, in all court-ordered, court-operated events.” Many civil cases such as evictions, guardianships, conservatorships, and family matters involving custody of children and termination of parental rights are critical to the lives of Californians. Court-ordered and court-operated programs, services and events, such as settlement conferences or mandatory mediation, are also essential to the fair resolution of disputes. It is therefore the intent of the Language Access Plan that the phase-in of interpreter services in civil proceedings and court-ordered, court-operated events be instituted immediately and be ongoing throughout the process of implementation of full language access.

The plan recommends a strategy for courts to gradually phase in the expansion of spoken language interpreter services in all court matters, as well as the creation of scheduling protocols to ensure the most efficient use of interpreters. The plan also proposes the thoughtful and responsible deployment of technological solutions, such as appropriate use of video remote technology and multilingual audiovisual tools, which provide language access while ensuring due process and high quality language services. The recommendations in the plan also set the framework for seeking the additional funding that will be needed to enable the courts to meet the increased demand on court resources that will arise from the branch’s commitment to language access, without sacrificing any other court services.



## **Implementation Requirements, Costs, and Operational Impacts**

The most significant operational impact for courts will be the expansion of court interpreters in all civil matters, which should already be underway in many courts. The Language Access Plan also identifies and advocates for the use of cost-effective methods to enhance language access throughout the courthouse, such as early identification of LEP court users, enhanced data collection, appropriate notice of language access services, multilingual self-help services and brochures, multilingual information on court websites (both audio recordings and written information), remote language services for interactions with court staff, and translated court signage and Judicial Council and local court forms. The plan places a significant focus on the appropriate qualification and use of a broad spectrum of language access providers, from court interpreters to bilingual employees to volunteers at the various points of contact that LEP court users have with the courts. The Language Access Implementation Task Force will need to provide guidance for courts on all of these issues, from proper qualification of providers, to best or existing practices and innovative approaches regarding operational changes suggested in the plan, to the implementation of expansion of interpreters in civil proceedings.

The plan also identifies categories of training for judicial officers, court administrators, and court staff on how to understand and address the needs of LEP court users. Training and education will include education in cultural competence, the optimal methods of managing a court proceeding in which interpreting services are being provided, the provision of language access services throughout the court system, and state and local language access policies.

Other subjects addressed in the plan include the recruitment and training of bilingual court staff and interpreters, the formation of partnerships with community organizations serving LEP populations, and the need for an infrastructure to address implementation, monitoring, and quality control of all language access services.

The 75 recommendations in the plan enumerate the policies and operational changes that will need to take place to make comprehensive language access a reality in the California courts. To turn these recommendations and policies into a practical roadmap for courts, the plan recommends that the Judicial Council immediately form a Language Access Implementation Task Force, which would report to the Judicial Council's Executive and Planning Committee. The Implementation Task Force would develop and recommend the methods and means to fully implement the Language Access Plan in all 58 counties, and would coordinate with related advisory groups and Judicial Council staff on implementation efforts, as appropriate. The Implementation Task Force would also make best estimates of the costs of implementation and the feasibility of the phasing process based upon resources available. The implementation process would include the monitoring and updating of the LAP, in particular, as the trial courts provide information, feedback, suggestions, and innovative solutions. The Joint Working Group also recommends that the Judicial Council direct staff to report to the Executive and Planning Committee regarding the establishment of a translation committee to oversee translation protocols for Judicial Council forms, written materials, and audiovisual tools.

## **Relevant Strategic Plan Goals and Operational Plan Objectives**

The *Strategic Plan for Language Access* supports Goal I of the Judicial Council’s 2006–2012 strategic plan—Access, Fairness, and Diversity—which sets forth that:

- All persons will have equal access to the courts and court proceedings and programs;
- Court procedures will be fair and understandable to court users; and
- Members of the judicial branch community will strive to understand and be responsive to the needs of court users from diverse cultural backgrounds.

The plan also aligns with the 2008–2011 operational plan for the judicial branch, which identifies additional objectives, including:

- Increase qualified interpreter services in mandated court proceedings and seek to expand services to additional court venues; and
- Increase the availability of language access services to all court users.

The plan also aligns with the Chief Justice’s Access 3D framework and enhances equal access by serving people of all languages, abilities, and needs, in keeping with California’s diversity.

## **Attachments**

1. *Strategic Plan for Language Access in the California Courts*
2. Chart of comments on Proposal SP14-05 [the draft plan posted 7/31/2014]

# **CALIFORNIA JUDICIAL BRANCH**

## **Strategic Plan for Language Access in the California Courts**

**January 6, 2015**

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## **Letter from the Chief Justice of California**

California’s incredible diversity is one of its greatest assets—it also presents great challenges—but challenges as significant as these also provide opportunities to thoughtfully consider the issues and craft an effective plan to address them.

The numbers tell the story of the access challenges facing Californians: approximately 40 percent of us speak a non-English language at home; there are more than 200 languages and dialects spoken; roughly 20 percent of us (nearly 7 million) have English language limitations.

To address this enormous linguistic challenge for our court system, the Joint Working Group for California’s Language Access Plan’s charge is to develop a comprehensive, statewide language access plan that will provide recommendations, guidance, and a consistent statewide approach to ensure language access for all of California’s limited English proficient (LEP) court users.

The Working Group is addressing one of my highest priorities for the judicial branch by looking at how we can provide full, meaningful, fair, and equal access to justice for all Californians. If individuals cannot understand what is happening in court, how to fill out legal forms, or how to find their way around the courthouse, there is no meaningful access. We need to identify the language barriers that litigants face every day in our courts and how we can better address those needs.

In August 2013, I announced my vision for improving access to justice for Californians, “Access 3D.” Access to our justice system must be examined through a framework that looks at equal access, physical access, and remote access. We ensure physical access by keeping courthouses and courtrooms open, well-maintained and accessible to persons with disabilities; we ensure remote access by providing online resources and electronic access to our court system; and we ensure equal access by making judicial proceedings and all related court contacts available and comprehensible to all. Efforts to enhance language access for LEP court users are a critical component of this Access 3D framework.

Access to the courts for all LEP individuals is critical not just to guarantee access to justice in our state, but to ensure the legitimacy of our system of justice and the trust and confidence of Californians in our court system.

Tani G. Cantil-Sakauye  
Chief Justice of California

## Joint Working Group for California’s Language Access Plan

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**The Joint Working Group for California’s Language Access Plan affirms that equal access to justice for all is the cornerstone of our judicial process.**

## **I. Introduction**

Access to the courts for all Californians is critical to ensure the legitimacy of our system of justice and the trust and confidence of Californians in our courts. Without meaningful language access, Californians who speak limited English are effectively denied access to the very laws created to protect them.

The Strategic Plan for Language Access in the California Courts (“Language Access Plan”) is a foundational component of the judicial branch’s commitment to addressing language access. It is the product of more than a year of research and policy development, and the gathering of critical input from stakeholders and justice partners. The plan sets forth (1) an extensive discussion of the multifaceted issues related to the expansion of language access, and (2) a comprehensive set of goals and recommendations delineating a consistent yet flexible statewide approach to the provision of language access, at no cost to court users.

The 75 recommendations in the plan enumerate the policies and operational changes that will need to take place to make comprehensive language access a reality in the California courts. In order to turn these recommendations and policies into a practical roadmap for courts, the plan recommends the immediate formation of a Language Access Implementation Task Force (name TBD, but referred to herein as “Implementation Task Force”). The Implementation Task Force

would develop and recommend the methods and means for fully—and realistically—implementing the Language Access Plan in all 58 counties, and would coordinate with related advisory groups and Judicial Council Staff on implementation efforts, as appropriate. The Implementation Task Force would also make best estimates as to the costs of implementation and the feasibility of the phasing process based upon resources available. The implementation process would include the monitoring and updating of the plan, in particular, as the trial courts provide information, feedback, suggestions and innovative solutions.

**a. Fundamental Issues for the Judicial Branch**

California is home to the most diverse population in the country. There are approximately 7 million limited English proficient (LEP) residents and potential court users speaking more than 200 languages and dispersed over a vast geographic area. The most commonly spoken languages vary widely both within and among counties; indigenous languages<sup>1</sup> have become more common and also more visible, particularly in rural areas; and the influx of new immigrants brings with it emerging languages<sup>2</sup> throughout the state. This richly diverse and dynamic population is one of our greatest assets, and a significant driver of the state’s

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<sup>1</sup> Throughout this language access plan, the term “indigenous languages” is used for minority languages that are native to a region and spoken by indigenous peoples. Many of these languages have limited or no written components. These indigenous languages present unique language access challenges because it is often difficult to find interpreters and language access providers who are able to speak both the indigenous language and English with enough proficiency for meaningful communication. Therefore, it is often necessary to provide relay interpreting, where the first interpreter renders the indigenous language into a more common foreign language (e.g., from one form of Mixteco to Spanish) and another interprets from the more common language to English (in our example, Spanish to English).

<sup>2</sup> “Emerging languages” are those that are spoken by newly arrived immigrants who have not yet established themselves in significant enough numbers or for long enough periods of time to be as visible to service providers, census trackers, or other data collectors. They are varied and ever changing, as migration patterns shift.

economic and social growth and progress. It also means that the state's institutions, including the judicial branch, must continually adapt to meet the needs of its constituents.

The diversity of California's population is matched by the diversity among, and within, its 58 counties. California has urban counties and rural counties, large and small, and counties with big cities, small towns, and scarcely populated land each with its own superior court. Alpine County has 2 judges and 1 courthouse location, with no staff interpreters, and a total population of about 1,200. Los Angeles County, by contrast, has 477 authorized judges, 91 commissioners, and 26 referees.<sup>3</sup> The Los Angeles court employs over 300 staff interpreters spread among its 600 courtrooms in 38 courthouses; they serve 10 million residents, spread across 4,800 square miles. In addition to the vast county differences, the state is split into four regions for purposes of collective bargaining with the interpreters' union. This often results in variations in agreed-upon work rules and conditions for employee interpreters.

To meet the needs and demands created by this diversity, the California trial courts have a long history of developing creative solutions to address language access needs, particularly in the provision of highly-trained certified and registered court interpreters. Currently there are more than 1,800 of these interpreters, providing 215,000 interpreter service days annually at a cost of over \$92 million each year.<sup>4</sup> In addition, courts have employed hundreds of highly skilled bilingual employees, utilized dozens of bilingual JusticeCorps volunteers in several courthouses,

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<sup>3</sup> Data as of June 2013.

<sup>4</sup> Total statewide court interpreter expenditures incurred during 2013–2014 that are eligible to be reimbursed from the Trial Court Trust Fund (TCTF) Program 45.45 (court interpreter) amounts to \$92,471,280.

and provided self-help assistance and other informational court services in multiple languages.<sup>5</sup> Individual courts have also developed their own innovative programs to increase the provision of services in languages other than English.<sup>6</sup> Many court forms have been translated, multilingual informational videos created, and collaborations with local community organizations formed to address language and cultural barriers.

While the efforts made to date have been substantial, many Californians still face significant obstacles to meaningful access to our justice system. The California courts also face unique challenges every day, particularly in courtrooms with high volume calendars in which the vast majority of litigants are self-represented (such as traffic, family law, and, of course, small claims, where parties must represent themselves). Courts must confront these challenges with limited resources, having endured severe budget cuts during the past several years that have crippled their ability to maintain adequate levels of service. Although some funding has been restored to the courts, the branch is not funded to the levels it was just a few years ago, much less to the level it must be to be able to provide all the services Californians need and expect in the resolution of their legal disputes.

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<sup>5</sup> See, for example, the California Courts Online Self-Help Center in English at [www.courts.ca.gov/selfhelp.htm](http://www.courts.ca.gov/selfhelp.htm) and in Spanish at [www.sucorte.ca.gov](http://www.sucorte.ca.gov); the JusticeCorps program detailed at [www.courts.ca.gov/justicecorps.htm](http://www.courts.ca.gov/justicecorps.htm).

<sup>6</sup> Depending on local resources and regional bargaining agreements, court interpreters in California currently provide a variety of interpreter services for LEP court users, including simultaneous or consecutive interpretation of court proceedings, court-ordered programs for which an interpreter is required such as court-ordered: psychiatric evaluations; interviews with defendants and witnesses; sight translation of court documents; probate investigations; mediations sessions and child-custody evaluations, or other interpreter services as may be required by the court. See also the University of California Hastings College of the Law's study on *Enhancing Language Access Services for LEP Court Users* (2013), found at [www.courts.ca.gov/documents/jc-20130426-info3.pdf](http://www.courts.ca.gov/documents/jc-20130426-info3.pdf), discussing the various approaches by local courts throughout the state to providing language access.

While the provision of comprehensive language access across our system of justice will undoubtedly require additional resources and funding, the branch also understands that fundamental and systemic changes in our approach to language access, at the statewide and local levels, are both necessary and feasible. The Chief Justice recognized that developing a comprehensive statewide language access plan was a critical first step in addressing the needs of the state's LEP population in a more systematic fashion. In June 2013, the Chief Justice appointed a Joint Working Group to develop this California courts' Language Access Plan, with the intent that it set forth useable standards for the provision of language access services across the superior courts statewide, while allowing local courts to retain control over the allocation of their internal resources.

This plan acknowledges, through some of the recommendations, that many beneficial practices are already in place in courts around the state. These successful practices are being included as recommendations in this plan to show appreciation for emerging best practices and to highlight effective approaches that local trial courts have taken, on their own, to promote language accessibility. The intent of these recommendations is to provide, as much as possible, a blueprint for trial courts to follow and use as guidance as they expand language access to the public they serve. The plan also recommends that the California Courts of Appeal and Supreme Court of California discuss and adopt applicable parts of the plan with any necessary modifications. This strategic plan is not, however, an operational or implementation plan. If this plan is approved, implementation, planning and oversight will begin in 2015.

Fundamental to California’s Language Access Plan is the principle that the plan’s implementation will be adequately funded so the expansion of language access services will take place without impairing other court services. The Language Access Plan recognizes that where resources are limited, where additional funding will take time to secure, or where implementing one recommendation can only occur after another is completed, the plan needs to provide for a phasing-in of its recommendations over time. The Implementation Task Force will be responsible for calculating implementation costs, creating implementation recommendations for the Judicial Council, and adjusting implementation based on feasibility assessments over time including the financial resources available.

In addition, is the intent of this plan that all of its recommendations be applied consistently across all 58 trial courts. To the extent that provisions in local bargaining agreements are in conflict with any recommendations contained in this plan, it is recommended that local agreements be modified or renegotiated as soon as practicable to be consistent with plan recommendations and to ensure that, at a general level, courts provide language access services for LEP persons that are consistent statewide. However, the drafters of the plan recognize that differences in local demographics, court operations and individual memoranda of understanding with court employees may constrain individual courts’ abilities to fully implement certain of the plan’s recommendations on the timeline proposed.



## **b. Summary of the Plan**

California's Language Access Plan proposes a comprehensive and systematic approach to expand and enhance language access in the California courts. While the plan allows for a large degree of flexibility for the state's diverse courts and communities, it also provides baseline standards to ensure statewide consistency with federal and state law<sup>7</sup> so that all Californians can expect language access services regardless of where they live within the state's borders.<sup>8</sup>

The Language Access Plan includes an assessment and prioritization of all of the points of contact between LEP court users and the courts. In this way, a greater level of skill and resources can be targeted at the most complex and important events, such as hearings, trials, and other court proceedings, while more flexible services can be provided at other points of contact, such as self-help centers and the clerk's office. The plan also considers and addresses points of contact before LEP court users even arrive at the courthouse, since they may be discouraged from accessing the judicial system if they perceive, accurately or not, that their

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<sup>7</sup> Relevant authority includes Title VI of the Civil Rights Act of 1964 and its implementing regulations (42 U.S.C. section 2000d et seq; 28 C.F.R. Part 42, Subpart C), the California Constitution, California Evidence Code section 756 (eff. 01/01/15), and California Government Code sections 68092.1 (eff. 01/01/15; see Appendix H for new statutes), 68560(e), and 7290 et seq. The plan also addresses issues identified by the U.S. Department of Justice in its investigation of the Judicial Council for compliance with Title VI regarding the provision of language access services in the California state courts.

<sup>8</sup> The legal requirements relating to access for deaf or hard of hearing court users are governed by the Americans with Disabilities Act (ADA) and other relevant statutes. However, deaf or hard of hearing court users and their interpreters should be considered as part of any language access plan implementation whenever appropriate, by, for example, including deaf or hard of hearing court users and their interpreters on "I Speak" cards or in centralized pilots. Provision of standards related to language access for deaf or hard of hearing court users will not be included in this plan since courts are already legally mandated to provide deaf or hard of hearing court users with disability and related language access (see ADA and section 504 of the Rehabilitation Act of 1973). Where access may not be provided to deaf or hard of hearing court users under the ADA, the courts will provide access as part of their compliance with this plan.

language needs will not be met. Targeting resource allocation to the most critical points of contact will also require improved data collection on the languages spoken in each county.

The plan also identifies and advocates for the use of cost-effective methods to enhance language access throughout the courthouse, such as multilingual self-help services and brochures, multilingual information on court websites (both spoken and written), remote language services for interactions with court staff, and translated court signage and legal forms. A significant focus is placed on the appropriate qualification and utilization of a variety of language access providers, from court interpreters to bilingual employees to trained volunteers, at the various points of contact that LEP court users have with our courts.

Additionally, the plan identifies the kinds of training needed for judicial officers, court administrators, and court staff on how to understand and address the needs of LEP court users, including education in cultural competence, the optimal methods of managing a court proceeding in which interpreting services are being provided, the provision of language access services throughout the court system, and state and local language access policies. Other subjects addressed in the plan include the recruitment and training of bilingual staff and interpreters, and the formation of partnerships with community organizations serving LEP populations.

The branch is constantly aware of the need to build in efficiencies and cost savings. The plan therefore recommends a strategy for phasing in the expansion of spoken language interpreter

services in all court matters consistent with new [Evidence Code section 756](#), where existing resources prohibit immediate expansion to all cases; and it recommends the creation of scheduling protocols to ensure the most efficient use of interpreters. The plan also proposes the thoughtful and responsible deployment of technological solutions, such as appropriate use of video remote technology and multilingual audiovisual tools, which provide language access while ensuring due process and high quality language services. The recommendations in the plan also set the framework for identifying the additional funding that will be needed to enable the courts to meet the increased demand on court resources that will arise from the branch's commitment to language access without sacrificing any other court services.

### **c. Timeline of Recommendations**

This strategic plan outlines three phases of implementation. This is proposed because some of the recommendations in this Language Access Plan can be implemented immediately; others may require the creation of efficiencies in existing court operations and the more effective deployment of current resources. Other recommendations require changes in legislation and rules of court, or additional funding for the judicial branch. The Implementation Task Force will have the flexibility to adjust phasing of the recommendations based upon its on-going review and monitoring of the progress of implementation and available resources.

To assist courts and all interested persons in understanding how the various recommendations contained in the Language Access Plan can be gradually phased in for implementation by the courts and the Judicial Council during the next five years (2015–2020), Appendix A groups all of the plan's recommendations into one of three phases.

- **PHASE 1:** These recommendations are urgent or should already be in place. Implementation of these recommendations should begin in year 1 (2015).
- **PHASE 2:** These recommendations are critical, but less urgent or may require completion of Phase 1 tasks. Implementation of these recommendations may begin immediately, where practicable, and in any event should begin by years 2–3 (2016–2017).
- **PHASE 3:** These recommendations are critical, but not urgent, or are complex and will require significant foundational steps, time, and resources to be completed by 2020. Implementation of these recommendations should begin immediately, where practicable, or immediately after the necessary foundational steps are in place.

Regardless of which phase a recommendation falls under, every recommendation in this plan should be put in place as soon as the resources can be secured and the necessary actions are taken for implementation. The provision of meaningful language access to all Californians who need it, and equal access to justice, are and should be considered a core court function. Courts should continue to provide all existing language access services even if the particular service appears in a later phase of this plan. Similarly, the proposed phase-in must allow for flexibility if the Implementation Task Force determines that different phasing is more appropriate to achieve the goal of comprehensive language access.

**d. The Planning Process**

The Joint Working Group’s effort to develop a comprehensive statewide language access plan began with the review of a large body of information, including language access plans of other states, the American Bar Association (ABA) Standards for Language Access in Courts, the California Federation of Interpreter’s position paper on video remote interpreting, prior reports on language access needs and solutions in California courts, and the National Center for State Courts’ Call to Action. Additional reports and materials were received over the course of the planning process. A complete list of the background information considered and utilized by the working group can be found in Appendix G. The working group also held three in-person meetings and numerous conference calls to debate ideas.

To complete the information-gathering process, the working group held meetings with court leaders and other stakeholders, held public hearings, and invited and received both written and oral public comment. This input included:

- Listening sessions with language access stakeholders, namely:
  - Independent interpreter organizations;
  - Legal services providers representing various communities throughout the state;
  - The California Federation of Interpreters; and
  - Presiding judges and court executive officers.
- Three public hearings (in San Francisco, Los Angeles, and Sacramento) with comments from 29 panelists providing input from local, statewide, national, health-care, court, education, and legislative perspectives. Audio for the three hearings was broadcast on

the web and included closed captioning in English and Spanish. American Sign Language (ASL) and spoken language interpreters were provided for audience members and persons providing oral comment.

Panelists included:

- Court executive officers representing the diversity of needs and challenges faced by different courts throughout the state;
- Legal services organizations and community advocates representing client populations in large urban areas such as Los Angeles, in Asian-American Pacific Islander and Latino communities throughout California, and in rural communities with significant numbers of indigenous language speakers;
- The president of the California State Bar, Assembly Member Ed Chau, and a representative from the California Department of Education;
- The president and representatives of the largest organization representing court interpreters in California, the California Federation of Interpreters (CFI); and
- A national expert from the National Center for State Courts, the director of the New Mexico Administrative Office of the Courts, and the Senior Director of National Diversity and Inclusion for Kaiser Foundation Health Plan, Inc.

During the public comment portion of the public hearings the working group heard extensive oral comments and received a significant body of written comments and prepared statements,

including comments from LEP court users (some of whom spoke in their primary languages, with their comments interpreted into English), court interpreters, community representatives, legal services providers, and education providers.<sup>9</sup>

Additionally, there was a public comment period of 60 days following Judicial Council’s approval and release of the draft of the Language Access Plan.

The Joint Working Group would like to thank all commentators and also acknowledge that the U.S. Department of Justice, in conjunction with its investigation, has been extremely supportive and helpful throughout the working group’s planning process as it worked to develop the best possible Language Access Plan for the California courts.

**Key themes from stakeholder input:**

Stakeholders provided a wealth of information during the listening sessions and in the public hearing and comment process. In preparing this Language Access Plan, the Joint Working Group has studied and considered this thoughtful and invaluable information at length. Although the range of topics covered, the insights shared, and the experiences relayed were extensive, some salient themes surfaced throughout the planning process:

- Although California’s judicial branch is committed to providing full, meaningful, fair, and equal access to justice for all Californians, including limited English proficient litigants,

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<sup>9</sup> See [www.courts.ca.gov/LAP.htm](http://www.courts.ca.gov/LAP.htm) for links to written public comments and prepared testimonies for the three public hearings.

much remains to be done, especially in the civil arena, to ensure all court users have meaningful access to the state's courts.

- Any efforts to improve the provision of language access services must include a more comprehensive mechanism for collecting data on LEP communities and their potential need for court services. Traditional sources of demographic data underestimate the existing numbers of LEP residents in the state, in particular with regard to linguistically isolated communities, migrant workers, and speakers of indigenous languages. Similarly, these data sources do not adequately track emerging languages.
- LEP speakers who need to use the judicial system for a variety of civil issues—from child custody to restraining orders to evictions—are unable to meaningfully access court processes because of language barriers. In critical proceedings such as hearings and trials, LEP court users are often forced to resort to family members or friends to communicate with the court. These untrained interpreters are rarely equipped to relay the court's communication accurately and completely to the LEP litigant, and vice versa. Failure to ensure proper communication can lead to the loss by LEP court users of important legal rights, an inability to access remedies, or basic misunderstandings and confusion.
- Language access must be provided at all critical or significant points of contact that LEP persons have with the court system. LEP parties are often unable to handle even the very first steps in seeking legal recourse, such as knowing what remedies or legal protections may be available and where to seek them out, knowing what legal procedures to follow, and understanding how to fill out court forms as well as how and



where to file them. Language access must start before an LEP court user reaches the courthouse doors; it must begin with community outreach and education efforts, web-based access, and the utilization of ethnic media outlets to educate the public. And it must then be available upon entering the courthouse and throughout all components of court services, such as self-help centers, alternative dispute resolution services, and the clerks' counters.

- Projections about the cost of expanding language access throughout all court proceedings and points of contact vary widely but are by and large unknown. There are questions about whether the existing pool of court interpreters who are certified or registered by the Judicial Council and available to work throughout the state is sufficient to meet the possible demand as services are expanded, with differing views regarding the existing capacity. Although it is difficult at this stage to estimate the cost of expanded access when including all attendant costs, from technology to interpreter deployment to translation to training and qualification of staff to improved courthouse signage, information can and must be collected to make rational projections.
- Technologies such as video remote interpreting (VRI), telephonic interpretation, web-based access, multilingual audiovisual tools, and others have an important role to play in the statewide provision of language access. However, courts must exercise care to ensure that the use of technology is appropriate for the setting involved, that safeguards are in place for ensuring access without deprivation of due process rights, and that high quality is maintained.

- The California judicial branch has seen a drastic reduction in funding in recent years. Although some funding has been restored, due to various factors this has not resulted in any net increase in the total funding for the branch. Consequently, courts throughout the state are still struggling to provide the most basic level of service to their communities. Expansion of language access services, though supported by all stakeholders, poses fiscal demands that must be satisfied by efficiencies in the provision of language services and, most importantly, by additional funding appropriated for that purpose and not by shifting already scarce resources from other court services.
- Any effort to ensure meaningful language access to the court system for all Californians must include partnerships with stakeholders. These stakeholders include: community-based providers like social services organizations, domestic violence advocates, mental health providers, and substance abuse treatment programs; justice partners such as legal services organizations, court interpreter organizations, district attorneys, public defenders, law enforcement, jails, probation departments, and administrative agencies; and other language access experts.
- The judicial branch should become more proactive in recruiting potential interpreters at the earliest stages of their education, particularly in high schools and community colleges. Courts should create partnerships with educational providers to develop a pipeline of potential interpreters and bilingual court employees.
- There is a critical need for training of judicial officers, court staff, and security personnel in (1) identifying and addressing the needs of court users at all points of contact with the court, (2) understanding distinct characteristics of the various ethnic communities that

can ensure respectful treatment of LEP court users, (3) ensuring that interpreters are, in fact, certified or are properly provisionally qualified, and (4) conducting courtroom proceedings in a manner that facilitates the maximum quality of interpretation.

**e. Relevant Judicial Branch Goals**

California’s Language Access Plan effort supports Goal 1 of the Judicial Council’s most recent strategic plan—Access, Fairness, and Diversity—which sets forth that:

- All persons will have equal access to the courts and court proceedings and programs;
- Court procedures will be fair and understandable to court users; and
- Members of the judicial branch community will strive to understand and be responsive to the needs of court users from diverse cultural backgrounds.

The Language Access Plan also aligns with the most recent operational plan for the judicial branch, which identifies additional objectives in support of Goal 1, including:

- Increase qualified interpreter services in court-ordered/court-operated proceedings and seek to expand services to additional court venues; and
- Increase the availability of language access services to all court users.

**f. Structure of the Language Access Plan**

The Language Access Plan identifies eight major goals around which the plan is organized. Each goal includes an issue description to (1) provide background on the problem/issue that the goal is intended to address, (2) discuss the relevant input received by the Joint Working Group

during the public participation process, and (3) highlight California's unique opportunities and challenges. The issue descriptions contained within each of the eight goals inform the recommendations that are designed to help achieve that particular goal. The plan also includes appendices that provide more detailed information on plan components, such as guidelines for the provision of video remote interpreting and tools to assist in the delivery of language access services.

**g. Concepts Utilized Throughout the Language Access Plan**

The Language Access Plan uses certain terms or phrases with a very deliberate purpose and concrete meaning. To avoid confusion, here are the common concepts used throughout and the intended meaning for purposes of the Language Access Plan:

**Civil cases or proceedings:** Any non-criminal matter in the state courts, including civil limited and unlimited, family law, juvenile dependency, probate, small claims, mental competency, and others.

**Court proceedings:** Any civil or criminal proceedings presided over by a judicial officer, such as a judge, commissioner or temporary judge, or managed by officers of the court or their official designees, such as special masters, referees and arbitrators.

**Court-ordered, court-operated programs, services or events:** Any programs, services or events that are both ordered by the court AND operated or managed by the court. It does not include a program or activity that is operated or under the control of a third-party provider. It does

include programs, such as Family Court Services orientation and mediation, or any other event directed by the judicial officer and occurring in relation to a pending case (e.g., “day of court” mediations in Family Law or Unlawful Detainer matters, or settlement discussions directed to occur by the judicial officer).<sup>10</sup>

**Language threshold:** Several recommendations in the Language Access Plan provide for translation of written or audiovisual materials. Because the language needs and demographics vary significantly among California’s 58 counties, and within counties themselves, the Language Access Plan proposes a method for determining how many and which languages any materials should be translated into. The proposed general language threshold is: “In English and up to five other languages, based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations and other entities working with LEP populations.” It is the Joint Working Group’s intent that the Implementation Task Force conduct a review of available data and, in consultation with experts, provide more specific guidelines to local courts regarding the number of languages, and population thresholds, for which they should provide translation.

**Provisional qualification:** The process courts must follow when no certified or registered interpreter is available to interpret, and the court needs to appoint someone else to interpret for a given proceeding. Provisional qualification is accomplished through a series of mandated

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<sup>10</sup> With respect to programs or services that may be court-ordered but are not operated or managed by the court (such as referrals to counseling or parenting classes), other court-related services (such as court-appointed guardians, custody evaluators who are not court staff, or forensic accountants), and non-mandatory programs such as voluntary mediation, this Language Access Plan recommends that judicial officers must determine that linguistically accessible services are available before LEP court users are ordered or referred to those services.

steps, including a finding of good cause, and the completion of a Judicial Council form, as laid out in [California Rule of Court 2.893](#), which delineates the procedure for provisionally qualifying someone to interpret in a criminal or juvenile proceeding.<sup>11</sup>

**Qualified interpreters:**

(1) Certified and registered interpreters as credentialed by the Judicial Council and who are in compliance with the [Professional Standards and Ethics for California Court Interpreters](#), and

(2) “Provisionally qualified” interpreters (non-certified and non-registered) who are determined to be qualified on a provisional basis.

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<sup>11</sup> Since no rule of court exists at this time for civil proceedings, this plan recommends amending the rule of court for provisional qualification in criminal and juvenile proceedings to include civil proceedings, as well as interim requirements until the rule is amended. The two parts of the current process for the court to appoint a noncertified or nonregistered interpreter are discussed in greater detail in Goal 2: (1) provisional qualifications of a noncertified or nonregistered interpreter, and (2) unavailability of a certified or registered interpreter.

## **II. STRATEGIC GOALS AND POLICIES**

### **Goal 1: Improve Early Identification of and Data Collection on Language Needs**

#### **Goal Statement**

The Judicial Council will identify statewide language access needs of limited English proficient (LEP) Californians, and the courts will identify the specific language access needs within local communities, doing so as early as possible in court interactions with LEP Californians.

#### **Issue Description**

Stakeholders unanimously agreed that the failure to identify the language needs of LEP court users early enough in the court process causes ripple effects throughout the system. When the need for a court interpreter is not identified in advance of a court appearance, courts and litigants may be forced to rely on untrained interpreters, often family or friends of the litigant, to provide language services. As discussed in more depth in Goal 2, the use of untrained interpreters can have serious and potentially dangerous consequences.

As language access services are expanded into more types of cases, early identification of LEP court users will become even more critical. Early identification makes it possible for courts to schedule qualified interpreters efficiently when calendaring cases in the various courtrooms where they are needed. It similarly allows courts to assign bilingual staff more efficiently to appropriate areas within the courthouse, and to share court interpreters across counties

through the cross-assignment process when staff interpreters are not available in one court but free in another. Early identification also reduces delays for the courts by minimizing the need to continue cases when the need for an interpreter becomes apparent too late in the process. Also, by allowing courts to address an LEP litigant's legal matters without unnecessary delays, early identification increases court user satisfaction.

**a. Early Identification of Language Needs**

*Issue Description*

The identification of the language needs of LEP court users should occur through a number of mechanisms, from an LEP person's self-identification to identification by court staff, justice partners, and judicial officers. While courts should encourage an individual's self-identification as LEP, courts should not rely on that exclusively. Some LEP court users may fail to request language access services because they may misjudge the level of proficiency required to communicate in court or be afraid of discrimination or bias.

Further, assessing the need for language services must occur throughout the life of the case. While providing information about language access at the filing of a case is critical, it is important to recognize and provide for the fact that an LEP person's need for such services may precede the filing of a case or may arise after a court ruling. Ideally, courts should have a system for documenting the requests that are made and whether the request was met, including proceedings and events both in and out of court.



**Recommendations:**

1. Courts will identify the language access needs for each LEP court user, including parties, witnesses, or other persons with a significant interest,<sup>12</sup> at the earliest possible point of contact with the LEP person. The language needs will be clearly and consistently documented in the case management system and/or any other case record or file, as appropriate given a court's existing case information record system, and this capability should be included in any future system upgrades or system development. (Phase 1)
2. A court's provision or denial of language services must be tracked in the court's case information system, however appropriate given a court's capabilities. Where current tracking of provision or denial is not possible, courts must make reasonable efforts to modify or update their systems to capture relevant data as soon as feasible. (Phases 1, 2)
3. Courts should establish protocols by which justice partners<sup>13</sup> can indicate to the court that an individual requires a spoken language interpreter at the earliest possible point of contact with the court system.<sup>14</sup> (Phase 1)

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<sup>12</sup> "Persons with a significant interest" include persons with a significant interest or involvement in a case or with legal decision-making authority, or whose presence or participation in the matter is necessary or appropriate as determined by a judicial officer. Examples of persons who may have a significant interest include: victims; legal guardians or custodians of a minor involved in a case as a party, witness, or victim; and legal guardians or custodians of adults involved in a case as a party, witness, or victim.

<sup>13</sup> Justice partners include legal services providers, law enforcement agencies, public defenders, district attorneys, county and city jails, child protective services, domestic violence advocates and shelters, and others.

<sup>14</sup> Options to be explored by the Implementation Task Force may include development of a Judicial Council form, modifying all relevant Judicial Council forms, creating a form to be filed with all initial pleadings, or working with justice partners to develop the protocols.

4. Courts will establish mechanisms<sup>15</sup> that invite LEP persons to self-identify as needing language access services upon contact with any part of the court system (using, for example, “I speak” cards [see page 56 for a sample card]). In the absence of self-identification, judicial officers and court staff must proactively seek to ascertain a court user’s language needs. (Phase 1)
  
5. Courts will inform court users about the availability of language access services at the earliest points of contact between court users and the court. The notice must include, where accurate and appropriate, that language access services are free. Courts should take into account that the need for language access services may occur earlier or later in the court process, so information about language services must be available throughout the duration of a case. Notices should be in English and up to five other languages based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations, and other entities working with LEP populations. Notice must be provided to the public, justice partners, legal services agencies, community-based organizations, and other entities working with LEP populations.<sup>16</sup> (Phase 1)

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<sup>15</sup> The Judicial Council’s Civil and Small Claims Advisory Committee is creating a fee waiver form for interpreter requests.

<sup>16</sup> For example, notices should be posted on the court’s website, on signage throughout the courthouse, at court information counters, in court brochures, in a document included with initial service of process, at court-community events, in public service notices and announcements in the media, including ethnic media, and in any embassies or consulates located in the county. To address low literacy populations and speakers of languages that do not have a written component, video and audio recordings should be developed to provide this notice.

## **b. Data Collection**

### *Issue Description*

Assessing the number of LEP persons likely to seek out court services, and the frequency of contact of these LEP persons with the courts, will help provide LEP court users with improved access to court services. In order to determine the language access needs both in any given court's community and statewide, the Judicial Council and individual courts should augment existing data collection methods. Currently, to plan for the provision of interpreter services, the Judicial Council is required to conduct a study of spoken language interpreter use in the trial courts, every five years. The next study is due to the Legislature in 2015.<sup>17</sup> Key findings from the study published in 2010 covering the years 2004 through 2008 include the following:

- Courts provided more than 1 million service days<sup>18</sup> of spoken language interpretation services in 147 languages;
- 17 languages accounted for 98.5% of all service days (see table, Appendix E);
- Spanish continued to be the most used language, representing 83% of all mandated service days in the state; and
- Statewide, the only significant changes in the number of service days by language were increases in Spanish (11%) and Mandarin (89%).

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<sup>17</sup> To better inform future decisions regarding interpreter use for limited English proficient (LEP) court users in civil proceedings, the *2015 Language Need and Interpreter Use Study* will also collect data and conduct analysis on interpretation needs in these areas. Findings and recommendations from this study will assist in the future designation of the languages to include in the certification program for court interpreters. An additional component of the study will explore use of interpreters in civil proceedings. Currently, there are court interpreter certification exams given for the following designated languages: American Sign Language, Arabic, Eastern Armenian, Cantonese, Khmer, Korean, Mandarin, Portuguese, Punjabi, Russian, Spanish, Tagalog, and Vietnamese. Farsi has been designated for certification, but is not yet certified. Even though Western Armenian and Japanese are certified languages, there is no bilingual interpreting exam presently available.

<sup>18</sup> Service days in the 2010 study are defined as the sum of interpreter assignments including full days, half-days, and night sessions.

When engaging in these data collection activities and projecting language needs, courts should not rely exclusively on the numbers provided by the U.S. Census and American Community Survey (ACS). The type of detailed, local information that courts need to identify the language needs of their constituents may not be adequately captured by these more traditional methods of demographic data collection. Further, many ethnic and linguistic minorities and emerging LEP communities are underreported in these sources of data, as was commented by community-based organizations during the public hearings.

Organizations working with specific populations have collected their own data to identify areas where census data may not accurately reflect our state’s linguistic diversity. For example, California Rural Legal Assistance conducted a comprehensive study<sup>19</sup> of migrant farm workers that provides useful information on indigenous languages spoken in different areas of our state. Other reliable sources of data that courts might contact to determine the unique needs of their communities are the California Department of Education, the Migration Policy Institute, and local welfare agencies that track the language needs of government assistance recipients at the local level. Engaging community-based agencies such as legal services agencies, refugee organizations, and community social services providers can provide local courts with a better understanding of the language needs of the communities they serve. Partnering with agencies that serve LEP court users in the court’s community can also lead to the development of

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<sup>19</sup> Available at [www.crla.org/sites/all/files/content/uploads/News/NewsUpdate/IFS-ReportJan10.pdf](http://www.crla.org/sites/all/files/content/uploads/News/NewsUpdate/IFS-ReportJan10.pdf)

culturally appropriate and effective strategies for the early identification of LEP court users needing court services.

With regard to the provision of language access services, courts currently track and report the amount of money spent on interpreter services. To gauge overall need, courts should also track and report expenditures on other services such as translations and multilingual signage or videos. All of these data collection efforts will provide critically necessary information to support funding requests, and will help courts determine how best to deploy court interpreters and bilingual staff and equipment to maximize the effective and efficient provision of language services.

**Recommendations:**

6. The Judicial Council and the courts will continue to expand and improve data collection on interpreter services, and expand language services cost reporting to include amounts spent on other language access services and tools such as translations, interpreter or language services coordination, bilingual pay differential for staff, and multilingual signage or technologies. This information is critical in supporting funding requests as the courts expand language access services into civil cases. (Phase 1)
7. The Judicial Council and the courts should collect data in order to anticipate the numbers and languages of likely LEP court users. Whenever data is collected, including for these purposes, the courts and the Judicial Council should look at other sources of data beyond the U.S. Census, such as school systems, health departments, county social services, and local community-based agencies. (Phase 2)

## **Goal 2: Provide Qualified Language Access Services in All Judicial Proceedings**

### **Goal Statement**

By 2017, and beginning immediately where resources permit, qualified interpreters will be provided in the California courts to LEP court users in all courtroom proceedings and, by 2020, in all court-ordered, court-operated events.<sup>20</sup>

### **a. Provision of Qualified Interpreters in Court Proceedings**

#### *Issue Description*

Court proceedings such as hearings and trials are arguably the most critical events during which a limited English proficient speaker will need high quality language assistance services to communicate with the participants in the proceeding. Existing law mandates that interpreters be provided by the court for parties, at no cost to them, for all criminal cases including felonies, misdemeanors, and infractions (including traffic cases).<sup>21</sup> Similarly, interpreters must also be provided if the defendant in a criminal case is a juvenile and the case proceeds as a juvenile delinquency matter. In juvenile dependency cases, interpreters must be provided by the court if the court appoints an attorney for the minor or a parent and the appointment of the interpreter is necessary to ensure the effective assistance of counsel.<sup>22</sup>

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<sup>20</sup> Within the context of this plan, and consistent with Evidence Code section 756 (d), the term “provided” (as in “qualified court interpreters will be provided”) means at no cost to the LEP court user and without cost recovery.

<sup>21</sup> Cal. Const., art. I, § 14: “A person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings.” Government Code section 68092(a) provides that the court shall pay for interpreters’ fees in criminal cases.

<sup>22</sup> Cal. Rules of Court, rule 5.534(h)(1)(A) and (B); *In re Emilye A. v. Ebrahim A.* (1992) 9 Cal.App.4th 1695.

With regard to civil cases, however, California law regarding provision of interpreters has historically been quite complex. Until January 2015, state statutes and case law authorized or required the expenditure of court funds for in-courtroom interpreters only in certain civil case matters so courts, on a discretionary basis, have provided interpreters to parties only in proceedings involving domestic violence, ancillary family law matters, and elder or dependent adult abuse protective orders. For most civil matters, however, general statutes providing parties to pay for interpreters in civil actions arguably prohibited court funds from being spent for that purpose, or in a more permissive interpretation, only allowed court funds to be spent on needed interpreters when the parties are indigent.<sup>23</sup> Effective January 1, 2015, however, [Evidence Code section 756](#) will go into effect, expressly authorizing courts to provide interpreters in civil matters, at no cost to the parties, with a prioritization by case type and preference within some priorities for indigent parties.

The passage of Evidence Code section 756 addresses many of the comments from stakeholders and the public—and the view of the Joint Working Group—that civil cases such as family law matters, evictions, guardianships, and conservatorships are critical to the lives of Californians. A large percentage of litigants in these types of cases, including LEP litigants, represent themselves in court and thus do not have the assistance of an attorney to explain the procedures or the law, or to help them present their case to a judicial officer. The use of untrained interpreters may lead to significant misunderstandings and a resulting lack of redress for LEP litigants, and is even more problematic in these cases where the parties are

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<sup>23</sup> Gov. Code, § 68092(b).

unrepresented. Their use can also cause confusion and slow the court process. Overall, relying on unqualified interpreters can result in serious and potentially dangerous consequences, such as necessary protective orders not being issued. Also challenging are situations when no interpreter (trained or untrained) can be found, and the matter has to be continued to a later date, causing monetary and resource losses for LEP court users and the courts. When justice is delayed, both litigants and the courts lose in the process.

Using a well-meaning but unqualified interpreter, who does not understand legal terminology or court procedures, and whose performance no one may be able to assess, can mask these miscommunications and errors, thus giving the appearance of meaningful access when none is in fact provided. Additionally, in an effort to communicate with LEP court users, judicial officers sometimes ask lawyers or advocates for these litigants to interpret for their clients or for witnesses, which creates significant conflicts of interest and ethical issues for these providers, while preventing them from properly focusing on the tasks for which they are present in the courtroom.

In many civil matters where fundamental interests are at stake, such as housing, personal safety, or the determination of a parental relationship, the cost to LEP litigants of retaining their own certified or registered interpreter (or the chance of being charged for interpreter services provided by the court after the case) can be prohibitive. It is for this reason that many of the stakeholders submitting spoken and written public comment emphasized the need for courts to provide interpreters free of cost to the LEP litigant. Some LEP litigants, particularly in more



complex limited and unlimited civil matters, may have the financial means to pay for their own interpreter (even if not initially, possibly after a money judgment is issued in their favor).

However, the Joint Working Group is cognizant of a potential chilling effect on LEP litigants, including their initial decisions whether to pursue a legal course of action, if they are required to pay for their own court interpreters. For this reason, it is the goal of this plan, and consistent with new Evidence Code section 756, that certified and registered interpreters be provided by courts without cost to the LEP court user.

Even when the right to an interpreter is recognized by law, or when an interpreter is allowed to be provided by the court at court expense, there may not always be a qualified interpreter available. When no certified or registered interpreter is available to interpret in criminal matters, the court is required to make specific findings before provisionally qualifying a proposed interpreter to interpret for a given proceeding. This is accomplished through a series of mandated steps, including a finding of good cause, and the completion of a Judicial Council form, as laid out in rule 2.893 of the California Rules of Court. Because interpreters have generally not been provided in civil cases there is no official mechanism for qualifying noncertified or nonregistered court interpreters in such cases.<sup>24</sup> Additionally, although a court user may be entitled to an interpreter, there is no designated process for them to waive the provision of an interpreter, should they wish to do so.<sup>25</sup>

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<sup>24</sup> Goal 8 addresses recommendations for statutory or rule changes that may be necessary to expand the use of interpreters in civil proceedings.

<sup>25</sup> Goal 8 addresses a recommendation for development of a policy regarding guidelines for a waiver of interpreter services by an LEP court user. Recommendation 50 under Goal 6 addresses the necessary training that will be required for judicial officers and court staff to ensure understanding of the waiver requirements, including the appropriateness of waiver and any potential for misuse.

With respect to the qualification process itself, court certified and registered interpreters in California are credentialed by the Judicial Council, with testing, continuing education, and ethical requirements overseen by the Judicial Council’s Court Language Access Support Program (CLASP) unit.<sup>26</sup> The speakers at the listening sessions and public hearings agreed that California is a leader in its credentialing of court interpreters. As Goal 5 states, the plan recommends that the existing standards for credentialing remain and, where appropriate, be further developed. Further discussion is provided below under the issue description in Goal 5.

**Recommendations:**

8. Qualified interpreters must be provided in the California courts to LEP court users in all court proceedings, including civil proceedings<sup>27</sup> as prioritized in Evidence Code section 756 (see Appendix H), and including Family Court Services mediation.  
(Phases 1 and 2)
9. Pending amendment of California Rules of Court, rule 2.893, when good cause exists, a noncertified or nonregistered court interpreter may be appointed in a court proceeding in any matter, civil or criminal, only after he or she is determined to be qualified by following the procedures for provisional qualification. These procedures are currently set forth, for criminal and juvenile delinquency matters, in rule 2.893 (and, for civil matters, will be set forth once the existing rule of court is amended).  
(See Recommendation 50, on training for judicial officers and court staff regarding

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<sup>26</sup> More information at <http://www.courts.ca.gov/programs-interpreters.htm>.

<sup>27</sup> As provided in [Evidence Code section 756\(g\)](#), the provision of interpreters in civil proceedings must not affect the provision of interpreter services in criminal, juvenile or other proceedings for which interpreters were previously mandated.

the provisional qualification procedures, and Recommendation 70, on amending rule 2.893 to include civil cases.) (Phases 1 and 2)

**b. Provision of Court Interpreters in Court-Ordered, Court-Operated Programs, Services, or Events**

*Issue Description*

Legal services providers, community members, court administrators, and justice partner representatives expressed concern that LEP litigants frequently find themselves in a court-ordered, court-operated program, service or event outside of a courtroom that is critical for compliance with court rulings or procedures. In these settings, court users are even less likely to obtain interpreter services, given the limited resources faced by many courts. For example, just as the court hearing on custody should be accessible to LEP litigants, Family Court Services mediation—a mandatory process for parents who are not in agreement about child custody or visitation issues— should similarly be fully available to LEP parents. During the public hearing process, legal services advocates and others criticized the common use of unqualified and sometimes entirely inappropriate interpreters—such as family, friends, or even opposing parties—for these events.

While recognizing that courts cannot be made responsible for providing language access services for programs that are not operated or managed by the court, it is common for judicial officers to order parties to participate in or complete outside programs or activities, and condition compliance with a court order on such participation or completion. These programs

offer a benefit to participants (such as parenting classes, batterer intervention programs, or counseling) or may be critical to resolution of a case (such as mediation, or supervised visitation programs that allow for safe child visitation). When making court orders, courts should not create a situation for an LEP court user that conditions his or her compliance on participation in a program for which no language access exists. If resources are so limited that interpreters or other appropriate modes of language access services are not available, courts should develop mechanisms for an LEP court user to comply with the court's order by participating in a comparable, yet linguistically accessible, program or activity, or by waiving participation for the LEP court user. This last alternative is least preferable as, presumably, these court programs and activities are critical for the proper resolution of a case. LEP persons should not be burdened with a less desirable alternative to resolve their court matters (for example, paying a fine rather than attending traffic school) because there are no linguistically accessible options available nor should an LEP individual be denied the benefit of the services otherwise deemed necessary. Recommendation 33 below addresses the need for courts to make reasonable efforts to identify or enter into contracts with providers that can provide language access services.

**Recommendations:**

10. Beginning immediately, as resources are available, but in any event no later than 2020, courts will provide qualified court interpreters in all court-ordered, court-operated programs, services and events, to all LEP litigants, witnesses, and persons with a significant interest in the case. (Phases 1, 2 and 3)

11. An LEP individual should not be ordered to participate in a court ordered program if that program does not provide appropriate language accessible services. If a judicial officer does not order participation in services due to the program's lack of language capacity, the court should order the litigant to participate in an appropriate alternative program that provides language access services for the LEP court user. In making its findings and orders, the court should inquire if the program provides language access services to ensure the LEP court user's ability to meet the requirements of the court. (Phase 2)

**c. Use of Technology for Providing Access in Courtroom Proceedings**

*Issue Description*

In order to achieve the goal of universal provision of interpreters in judicial proceedings, the appropriate use of technology must be considered. From the use of various forms of remote interpreting (telephonic or video) to developing multilingual audiovisual material, technology will, by necessity, be part of any comprehensive solution to the problem of lack of language access in judicial proceedings. The use of remote interpreters in courtroom proceedings can be particularly effective in expanding language access.

The quality of interpretation is of paramount importance and should never be compromised. Generally, an in person interpreter is preferred over a remote interpreter but there are situations in which remote interpreting is appropriate, and can be used with greater efficiency.

Remote interpreting, however, may only be used where it will allow LEP court users to fully and meaningfully participate in the proceedings.

Among the benefits of remote interpreting is the facilitation of prompt availability of language access for litigants by providing certified and registered interpreter services with less waiting time and fewer postponements; this saves both the court user's and the court's valuable time. In addition, having qualified interpreters more readily available through remote interpreting can decrease the use of less qualified interpreters, can decrease dismissals for failure to meet court deadlines and can decrease the frequency of attorneys or parties waiving interpreter services or proceeding as if the LEP person is not present, in order to avoid delays. By decreasing interpreter travel time between venues and increasing the number of events being interpreted by individual interpreters, remote interpreting allows more LEP litigants to be served, in more areas, utilizing the same personnel and financial resources, thereby greatly expanding language access.

In 2010 and 2011, California conducted a six month pilot of video remote interpreting (VRI) in American Sign Language in four courts. The purpose of the pilot was to test ASL VRI guidelines that had been prepared by the Court Interpreters Advisory Panel. Four remote interpreters provided services, and all stakeholders were included in the evaluation process. The evaluation showed improved access to court certified ASL interpreters, and high participant satisfaction. As a result of the pilot, the ASL VRI guidelines were successfully refined and completed.

Subsequent to the completion of the pilot, use of VRI in ASL events has expanded to more than

a dozen courts around the state. Although this pilot did not address some distinctly different issues that arise in remote interpretation of spoken language, it did establish that VRI can be used to provide meaningful language access in a variety of courtroom environments if done with appropriate controls and with equipment that meets minimum technology requirements.

Comments from the courts also noted that remote access is not just for interpreting; it is a means to provide a whole variety of services in places far away from our courthouses. For example, where satellite courts have been closed, or where jails are far away from courthouses, remote technology has allowed courts to continue to provide a level of service to those locations. Brief proceedings, such as arraignments, can also be done remotely, saving travel time and costs. It is important that courts, and the branch as a whole, integrate language access planning with information technology planning, to accommodate and anticipate all the differing capabilities expected of remote access technology for total bandwidth, infrastructure, equipment, and training.<sup>28</sup>

As explained by many in the listening sessions, there are also disadvantages to remote interpreting. Remote interpreting may be perceived as providing second-tier language access services and could, potentially, compromise the accuracy and precision of the interpretation.

One study showed that interpreter accuracy and level of fatigue was affected when interpreters

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<sup>28</sup> The successful implementation of the recommendations contained in California's Language Access Plan will require careful coordination with the related efforts of the Judicial Council Technology Committee, especially on the issues of ensuring the necessary infrastructure, equipment, training, and technical support for the use of remote interpreting.

provided services remotely, particularly where the event exceeded 15 to 20 minutes in length.<sup>29</sup>

Additionally, remote interpreting can dilute the control an interpreter is able to exercise in ensuring accurate interpretation and removes the important visual context of the setting including, potentially, the nonverbal cues of both the LEP speaker and others in the courtroom. All of these are factors for consideration when remote interpreting is being used to facilitate language access in the courtroom.

Any introduction of remote interpreting in the courtroom will have to include, in advance, appropriate training and education for all court personnel who will be involved in the court proceedings. Judicial officers, interpreter coordinators, and other court staff will need to be familiar with the factors that make an event appropriate for remote technologies, as well as with the technologies themselves, and with the potential drawbacks of using remote technology, so problems can be anticipated or resolved quickly, or the remote interpretation terminated. Judicial officers in particular will have to understand the remote interpretation process to ensure they are managing the courtroom and the proceedings appropriately. Suggested language for the judicial officer when considering objections related to remote interpreting is provided in Appendix C. Similarly, interpreters will have to be trained on the use of the technologies utilized by the court, as well as on the particular challenges that remote interpretation could present, such as the earlier onset of interpreter fatigue, an inability to adequately see or hear the participants, and the criticality of immediately reporting any

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<sup>29</sup> Braun, Sabine, "Recommendations for the use of video-mediated interpreting in criminal proceedings," in *Videoconference and Remote Interpreting in Criminal Proceedings*, eds. Braun, Sabine, and Taylor, Judith L. (Guildford: University of Surrey, 2011) at p. 279, available at [http://epubs.surrey.ac.uk/303017/2/14\\_Braun\\_recommendations.pdf](http://epubs.surrey.ac.uk/303017/2/14_Braun_recommendations.pdf), as part of the AVIDICUS Project aimed at assessing the viability of video-mediated interpreting in the criminal justice system.



impediment to performance or other ethical issues. Court staff must be trained and available to repair any technical problems with the equipment.

Language access can also be expanded by the use of multilingual audiovisual material; it is a simple use of technology that is relatable to all court users. For example, in some courtrooms where a particular type of case is heard (e.g., traffic, small claims, and AB 1058 governmental child support calendars), general introductory remarks that educate the litigants on some basic legal principles and procedures are often provided. For those courtrooms or calendars for which it makes sense, courts might develop a short multilingual video to communicate those introductory remarks to LEP persons. Some of these videos might also be made available on the court's website to orient litigants to what will be expected of them in court before their court appearance. (These videos will also help to address a common request, expressed by legal services providers working with LEP populations, that the Language Access Plan include development of tools for serving low literacy populations and speakers of indigenous languages or non-written languages.) Alternatively, when videos are not available, a live interpreter who is offsite might be used via video equipment to provide interpretation of the judge's general introductory remarks before a calendar is called.

**Recommendations:**

12. The use of in-person, certified and registered court interpreters is preferred for court proceedings, but courts may consider the use of remote interpreting where it is appropriate for a particular event. Remote interpreting may only be used if it

will allow LEP court-users to fully and meaningfully participate in the proceedings.

(Phase 1)

13. When using remote interpreting in the courtroom, the court must satisfy, to the extent feasible, the prerequisites, considerations and guidelines for remote interpreting set forth in Appendix B. (Phase 1)
14. The Implementation Task Force will establish minimum technology requirements for remote interpreting which will be updated on an ongoing basis and which will include minimum requirements for both simultaneous and consecutive interpreting.<sup>30</sup> (Phase 1)
15. Courts using remote interpreting should strive to provide video, used in conjunction with enhanced audio equipment, for courtroom interpretations, rather than relying on telephonic interpreting. (Phase 1)
16. The Judicial Council should conduct a pilot project, in alignment with the Judicial Branch’s Tactical Plan for Technology 2014–2016. This pilot should, to the extent possible, collect relevant data on: due process issues, participant satisfaction, whether remote interpreting increases the use of certified and registered interpreters as opposed to provisionally qualified interpreters, the effectiveness of a variety of available technologies (for both consecutive and simultaneous interpretation), and a cost-benefit analysis. The Judicial Council should make clear that this pilot project would not preclude or prevent any court from proceeding on

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<sup>30</sup> See, e.g., Council of Language Access Coordinators, “Remote Interpreting Guide for Courts and Court Staff,” (unpublished draft, June 2014)

its own to deploy remote interpreting, so long as it allows LEP court users to fully and meaningfully participate in the proceedings. (Phase 1)

17. In order to maximize the use and availability of California’s highly skilled certified and registered interpreters, the Judicial Council should consider creating a pilot program through which certified and registered interpreters would be available to all courts on a short-notice basis to provide remote interpreting services. (Phase 2)
18. The Judicial Council should continue to create multilingual standardized videos for high-volume case types that lend themselves to generalized, not localized, legal information, and provide them to courts in the state’s top eight languages and captioned in other languages. (Phase 1)

**d. Other Considerations When Appointing Interpreters**

*Issue Description*

Scheduling

Interpreter representatives in particular expressed concerns about the lack of understanding regarding the very challenging conditions that busy trial courtrooms present for interpreters. Interpreting is a highly specialized skill that requires a great degree of training and preparation. It is mentally taxing, and studies confirm that interpreting mistakes increase after 20 to 30 minutes, and an interpreter’s ability to self-monitor and self-correct correspondingly diminishes in this time. Court administrators and judicial officers should be mindful of this reality in scheduling interpreters for longer matters, in allowing for rest breaks, and in the overall management of the courtroom.

Calendar coordination is an important tool for appointing interpreters in an efficient manner. However, legal services providers and others have raised concerns that calendaring matters specifically for certain LEP populations in order to ensure the availability of interpreters can have the unintended consequence of allowing law enforcement agencies, such as Immigration and Customs Enforcement, to target LEP court users. Therefore, any efforts to maximize the use and availability of interpreters by identifying court proceedings where interpreters will be required must be done in a way that does not create unique risks for LEP court users, or have a chilling effect on their access to court services.

Additionally, Judicial Council staff assist the courts by providing calendar coordination of employee interpreters from other courts through a manual cross-assignment system. This system could be improved with automation and could be expanded to coordinate additional language access resources.

#### Misrepresentation of Credentials

Certified and registered interpreters also alerted the Joint Working Group to concerns about the misrepresentation by some interpreters of their credentials. For example, some interpreters used by the court claim to be certified or registered but provide false numbers or fail to provide their certified or registered interpreter number (as issued by the Judicial Council upon credentialing). Additionally, court staff and bench officers do not always verify that an interpreter has his or her interpreter oath on file with the court. These concerns are addressed,

effective January 2015, under amended Government Code § 68561, in particular subsections (g) and (f), which require a finding on the record of the validity of an interpreter’s credentials before a proceeding. This plan therefore incorporates the new, statutorily-required procedures and proposes training for judicial officers and court staff on those requirements (see Recommendations 19 and 50).

### Role of Bilingual Staff

On the issue of appointing interpreters to court proceedings, stakeholders raised concerns about the use of court bilingual staff as interpreters. Bilingual staff play a critical role in providing language access in the courts and their appropriate use and qualifications are addressed in other areas of this plan. For purposes of Goal 2 (Provision of Qualified Language Access Services in All Judicial Proceedings), judicial officers and court staff should understand that certified and registered interpreters possess highly specialized skills in language and interpreting techniques that are required in courtroom proceedings, skills which bilingual staff do not usually possess. Additionally, placing bilingual staff in the position to act as interpreters may create ethical dilemmas for them as their roles vis-à-vis the litigant and the court process become different, and information they may have gathered as staff may now impede their ability to interpret impartially and objectively. Therefore, it is critical that if bilingual staff are ever to be appointed to interpret in court proceedings, all of the required steps for finding good cause and for provisional qualification be followed.

### Friends and Family as “Interpreters”

As has been discussed earlier, the use of friends or family as interpreters can create serious issues concerning meaningful and accurate interpretation of proceedings. It should be noted here that, in addition to the absence of quality control, there are other factors that preclude the use of friends and family as interpreters in court proceedings: they are not neutral individuals, and so, they usually have an inherent conflict or bias; they may have a personal interest in misinterpreting what is being said; and, if minors, they may suffer emotionally from being put in “the middle” of conflict between or on behalf of their parents. It was the consensus of the stakeholders addressing this issue that minor children should never be used to interpret in court proceedings.

#### **Recommendations:**

19. Effective January 2015, pursuant to Government Code section 68561(g) and (f), judicial officers, in conjunction with court administrative personnel, must ensure that the interpreters being appointed are qualified, properly represent their credentials on the record,<sup>31</sup> and have filed with the court their interpreter oaths. (See Recommendation 50, which discusses training of judicial officers and court staff on these subjects.)<sup>32</sup> (Phase 1)
20. The Judicial Council should expand the existing formal regional coordination system to improve efficiencies in interpreter scheduling for court proceedings and

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<sup>31</sup> See California Supreme Court Committee on Judicial Ethics Opinion (CJEO) Formal Opinion # 2013-002 (December 2013) at [http://www.judicialethicsopinions.ca.gov/sites/default/files/CJEO\\_Formal\\_Opinion\\_2013-002\\_0.pdf](http://www.judicialethicsopinions.ca.gov/sites/default/files/CJEO_Formal_Opinion_2013-002_0.pdf) for a determination of what constitutes the record when no court reporter or electronic recording is available.

<sup>32</sup> While courts may use a bilingual person to communicate minor scheduling issues when no qualified interpreter is available, the record should reflect that no interpreter was present.

cross-assignments between courts throughout the state. (See Recommendation 30, addressing coordination for bilingual staff and interpreters for non-courtroom events.) (Phase 2)

21. Courts should continue to develop methods for using interpreters more efficiently and effectively, including but not limited to calendar coordination. Courts should develop these systems in a way that does not have a chilling effect on LEP court users' access to court services. (Phase 2)
22. Absent exigent circumstances, when appointing a noncertified, nonregistered interpreter, courts must not appoint persons with a conflict of interest or bias with respect to the matter. (Phase 1)
23. Minors will not be appointed to interpret in courtroom proceedings nor court-ordered and court-operated activities. (Phase 1)
24. Absent exigent circumstances, courts should avoid appointing bilingual court staff to interpret in courtroom proceedings; if the court does appoint staff, he or she must meet all of the provisional qualification requirements. (Phase 2)

## **Goal 3: Provide Language Access Services at All Points of Contact Outside Judicial Proceedings**

### **Goal Statement**

By 2020, courts will provide language access services at all points of contact in the California courts. Courts will provide notice to the public of available language services.

### **Issue Description**

As described elsewhere in this plan, LEP court users' language needs are not limited to the courtroom; the public's need for language assistance extends to all points of contact. While courtroom proceedings are critical, and therefore require the highest quality of language access services, other events and points of contact in the courthouse can also have a significant impact on case outcomes, the ability to procedurally and substantively advance a case forward, or the ability to proceed expeditiously. A person's ability to access the court system and seek legal redress or protection begins long before the LEP court user enters the courtroom to attend a hearing. Therefore, this Language Access Plan embraces the principle that it is the courts' responsibility to provide language access throughout the continuum of court services, from the first time an individual tries to access the court's website, or walks in the door of the courthouse, to posthearing events necessary to comply with court orders.

As reported by legal services providers and their clients at public hearings and in public comment, language barriers confront an LEP person from the moment he or she walks into a



courthouse or even before, when trying to get information by phone or from the court’s website. From the most basic inability to communicate what language they speak to the challenges presented by English-only signs and instructions, this lack of services can leave court users aimlessly wandering around the courthouse until frustration leads them to abandon their efforts, no matter how critical their legal need. The inability to understand and fill out mandatory forms and the bewilderment created by legal terminology and court instructions set forth only in English—all while dealing with the stresses of legal problems or even personal safety—have left all too many LEP legal services clients, self-help center users, and community members in a state of legal paralysis.

Experts and others who spoke at the various public hearings agreed that many of these points of contact do not require the skills of a qualified court interpreter. Many of the needs of thousands of LEP court users can be most appropriately addressed with appropriate language services from qualified bilingual staff. It was suggested that courts should explore different strategies for maximizing the use of bilingual staff to make more services available. Other tools can be made available at major points of contact to help improve access; for example, the ready availability of “I speak” cards (like the sample below) at all points of contact can help LEP court users indicate to staff what language they speak.



Translated materials such as referrals, informational brochures, and instructions can help communicate important information, such as how to prepare forms and how to file and serve them. Remote interpreting via telephone or video can also help staff at counters or self-help centers to provide linguistically competent services. Multilingual signage (discussed in detail under Goal 4), can also help LEP court users feel less lost and more able to negotiate the complex environment of the courthouse. Multilingual audiovisual material (for example, kiosks with touchscreen computers that can display visual and audio information in multiple languages) can also expand language access by instructing LEP court users what forms they may need or where they must go within the courthouse.

As was pointed out during the public hearings and listening sessions by court administrators, judicial officers, and other stakeholders, in order to rely on bilingual staff, it will be vital for

courts to take proactive steps to recruit and train bilingual individuals to serve at the more critical junctures, for example, where domestic violence form packets are disseminated (and explained). Where recruitment is challenging, educational providers should be enlisted to help identify potential sources for outreach and hiring by the court; they might also become partners in the training of these staff. In addition, bilingual staff should receive enhanced compensation for using their language skills. When facing budgetary obstacles to enhance language access, community volunteers whose language skills have been vetted can be a valuable resource to increase services. During the public hearings, the Joint Working Group learned that the Department of Education issues a “Seal of Biliteracy” to high school students in certain districts who pass a proficiency exam. Tapping into these and other sources of trained bilingual community members can significantly increase the court’s ability to serve its constituents in a culturally competent manner. At the core, it is vital that there be appropriate screening, monitoring, supervision, and training of staff and volunteers to ensure the quality and competency of the services provided.

**Recommendations:**

25. The court in each county will designate an office or person that serves as a language access resource for all court users, as well as court staff and judicial officers. This person or persons should be able to: describe all the services the court provides and what services it does not provide, access and disseminate all of the court’s multilingual written information as requested, and help LEP court users and court staff locate court language access resources. (Phase 1)

26. Courts should identify which points of contact are most critical for LEP court users, and, whenever possible, should place qualified bilingual staff at these locations.  
  
(See Recommendation 47, which discusses possible standards for the appropriate qualification level of bilingual staff at these locations.) (Phase 1)
27. All court staff who engage with the public will have access to language assistance tools, such as translated materials and resources, multi-language glossaries and “I speak” cards, to determine a court user’s native language, direct him or her to the designated location for language services, and/or provide the LEP individual with brochures, instructions, or other information in the appropriate language. (Phase 2)
28. Courts should strive to recruit bilingual staff fluent in the languages most common in that county. In order to increase the bilingual applicant pool, courts should conduct outreach to educational providers in the community, such as local high schools, community colleges, and universities, to promote the career opportunities available to bilingual individuals in the courts. (Phase 1)
29. Courts will develop written protocols or procedures to ensure LEP court users obtain adequate language access services where bilingual staff are not available. For example, the court’s interpreter coordinator could be on call to identify which interpreters or staff are available and appropriate to provide services in the clerk’s office or self-help center. Additionally, the use of remote technologies such as telephone access to bilingual staff persons in another location or remote interpreting could be instituted. (Phase 2)

30. The Judicial Council should consider adopting policies that promote sharing of bilingual staff and certified and registered court interpreters among courts, using remote technologies, for language assistance outside of court proceedings. (Phase 2)
31. The courts and the Judicial Council should consider a pilot to implement the use of remote interpreter services for counter help and at self-help centers, incorporating different solutions, including court-paid cloud-based fee-for-service models or a court/centralized bank of bilingual professionals. (Phase 2)
32. The courts should consider a pilot to implement inter-court, remote attendance at workshops, trainings, or “information nights” conducted in non-English languages using a variety of equipment, including telephone, video-conferencing (WebEx, Skype), or other technologies. (Phase 2)
33. In matters with LEP court users, courts must determine that court-appointed professionals, such as psychologists, mediators, and guardians, can provide linguistically accessible services before ordering or referring LEP court users to those professionals. Where no such language capability exists, courts should make reasonable efforts to identify or enter into contracts with providers able to offer such language capabilities, either as bilingual professionals who can provide the service directly in another language or via qualified interpreters. (Phase 2)
34. Courts should consider the use of bilingual volunteers to provide language access services at points of contact other than court proceedings, where appropriate.

Bilingual volunteers and interns must be properly trained and supervised. (Phase 1)

35. As an alternative for traditional information dissemination, the Judicial Council should consider creating pilot programs to implement the use of language access kiosks in lobbies or other public waiting areas to provide a variety of information electronically, such as on a computer or tablet platform. This information should be in English and up to five other languages based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations, and other entities working with LEP populations. At a minimum, all such materials should be available in English and Spanish. (Phase 3)

## **Goal 4: Provide High Quality Multilingual Translation and Signage**

### **Goal Statement**

The Judicial Council, assisted by the courts, will identify best practices and resources for the highest quality of document translation and court signage in all appropriate languages.

### **Issue Description**

Accurate and effective translation services are essential to ensure that documents and court signage commonly accessible to the public are available to limited-English speakers in their native languages. It is important to recognize, however, that not all languages have a written component, and some LEP persons may also have literacy challenges in their native language. Any strategies to provide translated materials should consider the manner of delivery of these materials to account for these factors, such as creating video and/or audio of the information otherwise available in writing. Video- and audio-based information will also benefit English speakers who have low literacy or who prefer to receive information through mechanisms other than written materials.

The California Courts Online Self-Help Center,<sup>33</sup> for example, provides hundreds of pages of information for court users in English and Spanish, but also incorporates videos on issues such as mediation in small claims, unlawful detainer, and civil harassment cases in English, Spanish, and Russian, as well as English/Spanish videos on issues pertaining to the child custody, juvenile

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<sup>33</sup> In English at [www.courts.ca.gov/selfhelp.htm](http://www.courts.ca.gov/selfhelp.htm) and in Spanish at [www.sucorte.ca.gov](http://www.sucorte.ca.gov).

delinquency, and juvenile dependency processes. The Online Self-Help Center also has audio recordings of the most common domestic violence information sheets in English and Spanish and instructional videos for completion of common court forms, such as divorce petitions and responses, fee waivers, and domestic violence restraining orders.

While the statewide self-help website provides generalized information, stakeholders pointed out that local courts have no consistency in the translated information on their websites. Most courts only provide information on local procedures in English and do not have local forms available in other languages. Some provide links to the statewide website, but others do not. When translations are provided, legal services providers and their clients report inconsistencies in quality, with translation errors rendering some of the information legally incorrect and thus unusable.

With respect to Judicial Council forms, the Judicial Council has translated the most critical domestic violence forms into Spanish, Chinese, Korean, and Vietnamese, and most of the key family law forms and information sheets into Spanish. The Joint Working Group received comments from legal services providers asking why all forms in a “set” (e.g., all family law forms) are not translated, and urged the group to include in the Language Access Plan a recommendation that more forms be translated, particularly for conservatorships and guardianships, which are highly technical.



Court administrators and legal services providers alike recognized the significant costs associated with translations, but agreed that efficiencies can be built into the system, such as through better statewide coordination of translations so that general information may be translated at the state level for use by all courts. Court forms, juror information, and general educational material (in written or audio/video form) can be centrally translated and provided to courts for any necessary local adaptation. This approach can also incorporate quality control mechanisms to ensure that the translations are performed by competent and qualified translators with experience with court and legal translation and certification from the American Translators Association (ATA). Where appropriate, translator qualification may also be established by the translator's experience or education, such as a degree or certificate from an accredited university in the United States or the equivalent from another country in translation or linguistic studies.

In the meantime, existing tools can be used immediately to improve language access. While providing written translations of individual court orders may not always be feasible, it is fundamental to our judicial system that all court users understand the court orders that are issued. To this end, and where Judicial Council forms exist, courtrooms should have translated versions of these order forms (for information only) to provide to LEP parties, who can then look at their English court order side by side with the translated form in order to understand and comply with the order.

Easy-to-understand signage is also essential to help LEP court users navigate the courthouse and ensure they receive appropriate services. At the San Francisco public hearing, one expert testified that access starts with wayfinding, which requires the use of clear and intuitive visual cues to minimize confusion and assist all persons who enter a building. It is accomplished through the strategic and immediate visual location of common important public spaces: information desks, elevators, stairs, and restrooms. Wayfinding is then supplemented by appropriate signage. Static signage materials (printed materials or signs) can be augmented by dynamic or electronic signage, which allows courts to more easily update information provided to court users in multiple languages, similar to digital signs in airports. A suggestion was made at the public hearings for courts to create virtual courthouse tours on the web, which will enable court users to navigate a virtual courthouse prior to their actual visit. A similar tool could be created for smartphones, tablet computers, and other mobile devices. These important navigational tools can help to remove confusion and language access barriers, and reduce the apprehension that many court users may have about going to an unfamiliar courthouse.

**Recommendations:**

36. The Judicial Council will create a translation committee to develop and formalize a translation protocol for Judicial Council translations of forms, written materials, and audiovisual tools. The committee should collaborate with interpreter organizations and courts to develop a legal glossary in all certified languages, taking into account regional differences, to maintain consistency in the translation of legal terms. The committee's responsibilities will also include identifying qualifications for translators, and the prioritization, coordination, and oversight of

the translation of materials. The qualification of translators should include a requirement to have a court or legal specialization and be accredited by the American Translators Association (ATA), or to have been determined qualified to provide the translations based on experience, education, and references. Once the Judicial Council's translation protocol is established, individual courts should establish similar quality control and translation procedures for local forms, informational materials, recordings, and videos aimed at providing information to the public. Local court website information should use similarly qualified translators. Courts are encouraged to partner with local community organizations to accomplish this recommendation. (Phase 1)

37. The Judicial Council staff will work with courts to provide samples and templates of multilingual information for court users that are applicable on a statewide basis and adaptable for local use. (Phase 1)
38. The Judicial Council's staff will post on the California Courts website written translations of forms and informational and educational materials for the public as they become available and will send notice to the courts of their availability so that courts can link to these postings from their own websites. (Phase 1)
39. The staff of the Judicial Council should assist courts by providing plain-language translations of the most common and relevant signs likely to be used in a courthouse, and provide guidance on the use of internationally recognized icons, symbols, and displays to limit the need for text and, therefore, translation. Where more localized signage is required, courts should have all public signs in English

and translated in up to five other languages based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations, and other entities working with LEP populations. At a minimum, all such materials should be available in English and Spanish. (Phase 2)

40. Courts will provide sight translation of court orders and should consider providing written translations of those orders to LEP persons when needed. At a minimum, courts should provide the translated version of the relevant Judicial Council form to help litigants compare their specific court order to the translated template form. (Phase 1)

41. The Judicial Council, partnering with courts, should ensure that new courthouse construction efforts, as well as redesign of existing courthouse space, are undertaken with consideration for making courthouses more easily navigable by all LEP persons. (Phase 2)

42. The Judicial Council's staff will provide information to courts interested in better wayfinding strategies, multilingual (static and dynamic) signage, and other design strategies that focus on assisting LEP court users. (Phase 2)

## **Goal 5: Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers**

### **Goal Statement**

The courts and the Judicial Council will ensure that all providers of language access services deliver high quality services. Courts and the Judicial Council will establish proficiency standards for bilingual staff and volunteers appropriate to the service being delivered, offer ongoing training for all language services providers, and proactively recruit persons interested in becoming interpreters or bilingual court staff.

### **Issue Description**

#### *Proficiency Standards*

Court-certified and registered interpreters in California are credentialed by the Judicial Council, with testing, continuing education, and ethical requirements overseen by the council's staff in the Court Language Access Support Program (CLASP) unit. The speakers during the listening sessions and public hearings agreed that California has been and continues to be a leader in credentialing of its court interpreters, and this plan recommends that such high standards continue and be built upon. Some interpreters raised concerns that the current examination process that adopts the testing standards set by the Consortium for Language Access in the Courts' Certification Test may have lowered the qualifications required of new interpreters. After consideration and research, the Joint Working Group, advised by the Judicial Council's Court Interpreters Advisory Panel, decided that, at this time, the testing and certification

procedures remain appropriate and ensure that only the most qualified interpreters are able to pass and become certified or registered.

As interpreters are deployed in more and more civil cases, all stakeholders agreed that systematic training in the legal terminology used and procedural steps followed in civil case types would be beneficial for those interpreters who have not had experience in the civil arena. Similarly, as remote interpreting is gradually phased in for the expansion of language access, training will be necessary for interpreters and court personnel alike with regard to the technology and the optimum manner of using such equipment.

As stated in Goal 2, the court should provide qualified interpreters for all court proceedings. However, the majority of interactions LEP court users have with the court system will be outside the courtroom and will be handled by bilingual staff or volunteers. Therefore, courts must ensure that the individuals assigned to communicate with the LEP public be qualified and trained.

As legal services providers, their clients, and many others commented during the public hearings and listening sessions—and as detailed in the discussion of Goal 3—LEP court users must be able to obtain accurate and complete information throughout their dealings with the court system. Stakeholders all agree that different points of contact with the public, by their nature, involve different levels of interaction between staff and an LEP court user. For example, a bilingual court clerk working the cashier window will need to be able to carry out basic

monetary transactions in another language with an LEP court user and perhaps provide some standardized information on policies and procedures for paying fines. A bilingual staff person at a self-help center, on the other hand, will have to be able to communicate completely, almost with native-like fluency with an LEP court user needing assistance in understanding court procedures and in preparing forms. The self-help staff person must be able to understand nuanced conversations and questions, provide technical information using the correct legal terminology (in all relevant languages), and be precise in their use of language. A bilingual staff person at the filing counter in the clerk's office may not need to be proficient in writing in another language, but a bilingual family law facilitator may have to write instructions in another language or translate documents.

Many courts have internal procedures for determining the bilingual abilities of court staff, from new hires to existing staff. There is currently no uniform procedure for courts to test language proficiencies, but courts wishing to examine their existing policies or establish a standard for hires may take advantage of the Oral Proficiency Exam (OPE),<sup>34</sup> currently used by the staff of the Judicial Council's Court Language Access Support Program (CLASP) unit to credential most registered interpreters. The OPE is a speaking-ability test that uses the guidelines established by the American Council on the Teaching of Foreign Languages (ACTFL) to provide scores that correlate with a given level of language proficiency.<sup>35</sup> Courts can look at the ACTFL guidelines to adapt them to the court setting and determine what OPE scores are appropriate for the

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<sup>34</sup> Information on the Oral Proficiency Exam (OPE) is available at <https://www.prometric.com/en-us/clients/California/Pages/CA-COURT-ORAL-PROFICIENCY-EXAM.aspx>.

<sup>35</sup> The American Council on the Teaching of Foreign Languages describes five major levels of proficiency: Distinguished, Superior, Advanced, Intermediate, and Novice. Available at [www.actfl.org/publications/guidelines-and-manuals/actfl-proficiency-guidelines-2012/english/speaking](http://www.actfl.org/publications/guidelines-and-manuals/actfl-proficiency-guidelines-2012/english/speaking).

different possible points of contact between LEP court users and bilingual staff.<sup>36</sup> The Joint Working Group reviewed the different levels and determined that ACTFL’s “intermediate mid” should be the minimum proficiency required for persons designated as bilingual staff, while allowing courts to exercise their discretion as to the circumstances or points of contact when a higher or lower level of proficiency may be required.

Various legal services providers and LEP court users have observed that court staff and written materials sometimes use different translated words or phrases to refer to the same legal or technical term. Bilingual staff and volunteers must be trained in legal terminology so that terms are used consistently by all persons having contact with the public. The Judicial Council and the courts should therefore collaborate on an agreed-upon glossary of legal terms. This glossary should take into account differences in usage due to the country of origin and linguistic background of the LEP communities served by a given court’s community.

While court interpreters and bilingual staff are the primary language access providers in day-to-day interactions with the court, translators who translate written material from one language to another are also key providers. Translators may translate court forms, exhibits, court signs, websites, scripts for video or other audiovisual tools, etc. The language skills required for qualified translation are unique, different from those required for interpretation and much

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<sup>36</sup> An additional resource courts may want to consider when assessing the proficiency of bilingual staff is the Interagency Language Roundtable’s skill description for interpreter performance. The ILR is a nonfunded federal interagency organization established for the coordination and sharing of information about language-related activities at the federal level. The skill descriptions, located at [www.govtilr.org/Skills/interpretationSLDsapproved.htm](http://www.govtilr.org/Skills/interpretationSLDsapproved.htm) provide a rating system for assessing the language abilities of interpreters in government settings, and may be of guidance for courts in assessing bilingual staff who do not need the higher specialization of interpreters but may need similar language skills.



more advanced than those required of bilingual staff. Though many court interpreters are also qualified translators, not all are. Certified and registered court interpreters are not tested on their written skills in the non-English language, and only the American Translators Association (ATA) provides certification in translation, though not specific to the law or the court system. Therefore, it is critical that courts use competent, qualified translators for providing language access through any medium that requires written content.

### *Recruitment*

While training and qualification of existing resources is critical, many participants in the public hearings and listening sessions pointed out the shortages throughout the state in qualified language access providers. To begin to address this gap between the supply and demand for language services providers, the Judicial Council and local courts should pursue strategies to enhance the recruitment of individuals who wish to seek a career as language access providers for the court, whether as certified and registered interpreters or as bilingual staff. Some interpreters voiced the belief that California has enough court interpreters to provide court hearing interpretation in most civil matters and court-mandated services (at least in Spanish, the most common language in our state other than English). However, all agree it is nevertheless vital to continue recruitment efforts so there will continue to be an adequate number of interpreters in future years.

The total number of certified and registered interpreters has increased to over 1,800 after a significant drop in the year 2000 when there were only 1,108 total interpreters. However, the

total number of Spanish-certified court interpreters today (1,342) is still lower than it was in 1995, when there were 1,536 Spanish-certified court interpreters.<sup>37</sup> The passage rate for certification examinations is low,<sup>38</sup> and many individuals give up on the process of becoming certified or registered due to the cost of repeated exams. Court partnerships with educational institutions, including community colleges and state universities, are essential to promote the better preparation of prospective interpreters since they are uniquely placed to train students to pass the certification and registration exams. Similarly, partners such as public defenders, district attorneys, and legal services providers can offer internship opportunities to prospective interpreters to expose them to, and prepare them for, a career in legal interpreting.

Education providers can also play a critical role in assisting courts in identifying bilingual Californians who may want to pursue a career in public service by working in the court system, and in helping to build the language skills of these prospective public servants. In fact, many community colleges and universities throughout the state are concentrating efforts to train bilingual students to serve as language services providers in the government and medical sectors. Courts and the legal system as a whole would greatly benefit from tapping into these resources. Even at the high school level, and earlier, schools can partner with their local courts to provide information and education to children about the benefits of building on language skills to improve opportunities for growth and employment after high school. Courts should include schools, colleges, and universities in court-community events where students have an

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<sup>37</sup> See *2000 Language Need and Interpreter Use Study*, Table 3.6, at p. 3.13, available upon request.

<sup>38</sup> Between July 2010 and June 2012, the exam pass rate for bilingual interpreting exams was approximately 10.8%.

opportunity to observe court professionals, from interpreters to bilingual court staff to judicial officers, as a complement to both civics education and career exploration.

Community-based organizations too can be powerful collaborators with courts in the recruitment of bilingual persons to work for the courts. They have insights into the barriers to education and employment for members of their communities, awareness of existing job training and skill-development programs, and the ability to help courts identify untapped resources for recruitment and training of prospective bilingual court employees. Internships and volunteer opportunities in the courts, under the supervision, guidance, and support of educational providers and community-based organizations, can be an avenue for recruitment of future court language service providers.

**Recommendations:**

43. Courts, the Judicial Council, and the Court Interpreters Advisory Panel (CIAP) will ensure that all interpreters providing language access services to limited English proficient court users are qualified and competent. Existing standards for qualifications should remain in effect and will be reviewed regularly by the CIAP.

(Phase 1)

44. The online statewide orientation program will continue to be available to facilitate orientation training for new interpreters working in the courts.<sup>39</sup> (Phase

1)

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<sup>39</sup> This orientation is currently required for new interpreters prior to enrollment but is available to anyone, including interpreters for whom registered status is not applicable (e.g., deaf interpreters and indigenous language interpreters).

45. The Judicial Council and the courts should work with interpreter organizations and educational providers (including the California community college and state university systems) to examine ways to better prepare prospective interpreters to pass the credentialing examination. These efforts should include:

- Partnering to develop possible exam preparation courses and tests, and
- Creating internship and mentorship opportunities in the courts and in related legal settings (such as work with legal services providers or other legal professionals) to help train and prepare prospective interpreters in all legal areas.

(Phase 1)

46. The Judicial Council, interpreter organizations, and educational groups should collaborate to create training programs for those who will be interpreting in civil cases and those who will be providing remote interpreting. (Phase 1)

47. Courts must ensure that bilingual staff providing information to LEP court users are proficient in the languages in which they communicate. All staff designated as bilingual staff by courts must at a minimum meet standards corresponding to "Intermediate mid" as defined under the American Council on the Teaching of Foreign Languages guidelines. (See Appendix F.) The existing Oral Proficiency Exam available through the Judicial Council's Court Language Access Support Program (CLASP) unit may be used by courts to establish foreign-language proficiency of staff. Courts should not rely on self-evaluation by bilingual staff in determining their language proficiency. (Phase 1)

48. Beyond the specified minimum, the Judicial Council staff will work with the courts to (a) identify standards of language proficiency for specific points of public contact within the courthouse, and (b) develop and implement an online training for bilingual staff. (Phase 1)
49. The Judicial Council staff will work with educational providers, community-based organizations, and interpreter organizations to identify recruitment strategies, including consideration of market conditions, to encourage bilingual individuals to pursue the interpreting profession or employment opportunities in the courts as bilingual staff. (Phase 2)

## **Goal 6: Provide Judicial Branch Training on Language Access Policies and Procedures**

### **Goal Statement**

Judicial officers, court administrators, and court staff will receive training on language access policies, procedures, and standards, so they can respond consistently and effectively to the needs of LEP court users, while providing culturally competent language access services.

### **Issue Description**

Throughout the planning process—from input during listening sessions to oral and written comments during the public hearings—stakeholders reiterated their concerns about the need for appropriate training of court staff and judicial officers. Judges and court administrators expressed concern with respect to their own lack of training in how to determine whether a noncertified or nonregistered interpreter is capable of providing competent language access services. Legal services providers reported a lack of knowledge on the part of court staff regarding more specialized language needs, such as an awareness of the diversity of languages spoken within a given county, the varieties of indigenous languages, and tools for identifying the preferred language for an LEP court user. There were also inconsistencies in the method for provisionally qualifying noncertified or nonregistered interpreters, and in the awareness of when, if ever, it is appropriate to ask attorneys or advocates to interpret for their clients. Finally, advocates expressed concern over the courts' referrals of LEP parties to court-appointed professionals who may or may not be linguistically accessible or culturally

competent. (Recommendation 33 above provides mechanisms to ensure courts contract with providers who provide services accessible to and by LEP persons.)

Interpreters expressed concerns about a general misunderstanding among court staff, judicial officers, and even other participants in the court process (including attorneys) of the interpreter's role and ethical constraints. Similarly, interpreters described a lack of awareness of the highly specialized skills required for court interpreting, the mental and physical toll of interpreting for periods longer than 30 minutes, the challenges fast-paced, crowded courtrooms pose for the interpreter, and ways to improve communication and courtroom management to optimize the task of an interpreter.

Language access stakeholders also expressed concern that court staff may not be aware of language access policies for their courts, an issue amplified by the lack of consistency among and even within courts. The absence or perceived absence of clear guidelines at the local and state level can cause confusion for court administrators and staff, thus highlighting the critical need for ongoing trainings on existing policies and on the statewide policies to be established after adoption of this Language Access Plan. Training on policies must also include information and tools for court staff and judicial officers that can be used to identify an individual's need for language services and properly documenting the language services need, even when unable to provide the services.

Any training for court staff and judicial officers should address, as well, the challenges faced by court interpreters when performing their jobs. Courtroom personnel and bench officers must understand the importance of effective courtroom management, the need to control the speed of the proceeding, the interpreter's ethical obligations to assess and report impediments to his or her performance, and the mental toll that interpreting takes on even the most qualified and seasoned interpreter.

**Recommendations:**

50. Judicial officers, including temporary judges, court administrators, and court staff will receive training regarding the judicial branch's language access policies and requirements as delineated in this Language Access Plan, as well as the policies and procedures of their individual courts. Courts should schedule additional training when policies are updated or changed. These trainings should include:

- Optimal methods for managing court proceedings involving interpreters, including an understanding of the mental exertion and concentration required for interpreting, the challenges of interpreter fatigue, the need to control rapid rates of speech and dialogue, and consideration of team interpreting where appropriate;
- The interpreter's ethical duty to clarify issues during interpretation and to report impediments to performance;
- Required procedures for the appointment and use of a provisionally qualified interpreter and for an LEP court user's waiver, if requested, of interpreter services;



- Legal requirements for establishing, on the record<sup>40</sup>, an interpreter’s credentials;
- Available technologies and minimum technical and operational standards for providing remote interpreting; and
- Working with LEP court users in a culturally competent manner.

The staff of the Judicial Council will develop curricula for trainings, as well as resource manuals that address all training components, and distribute them to all courts for adaptation to local needs. (Phase 1)

51. Information on local and statewide language access resources, training and educational components identified throughout this plan, glossaries, signage, and other tools for providing language access should be readily available to all court staff through individual courts’ intranets. (Phases 2 and 3)

52. Judicial Council staff should develop bench cards that summarize salient language access policies and procedures and available resources to assist bench officers in addressing language issues that arise in the courtroom, including policies related to remote interpreting. (Phase 1)

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<sup>40</sup> See footnote 31 above.

## **Goal 7: Conduct Outreach to Communities Regarding Language Access Services**

### **Goal Statement**

The Judicial Council and the courts will undertake comprehensive outreach to, and engage in partnership with, LEP communities and the organizations that serve them.

### **Issue Description**

The role of courts is to serve their communities by providing a process for resolving disputes. Educating the community about court services is one of the ways by which the courts instill trust and confidence in the legal system. As legal services providers and LEP participants commented during the three public hearings, many LEP individuals do not come to the courthouse for legal help because they mistrust courts, misunderstand the role of the court system, and lack knowledge of their legal rights and what the court can do for them. They also believe, often for good reason, that they will not be able to communicate effectively in their language.

Engaging the community through outreach is critical to establishing the legitimacy of the court system and creating respect for the institution—and by extension—for the orders and decisions it makes. This must include outreach to LEP communities to explain that the court is there to serve them and is linguistically accessible to them. Additionally, ongoing outreach efforts, at both the state and local levels, provide the best means for securing community input on

language access needs. Establishing mechanisms to receive community feedback regarding the effectiveness, or lack thereof, of the court's language access services is a key component to ensuring community trust and quality control of the court's services. (Goal 8 addresses complaint mechanisms and related systems to manage and oversee language access policies at the state and local levels.)

These outreach efforts must be multifaceted. Courts can leverage existing community resources to notify their constituents of language access services as well as court services as a whole. To do this, courts can ensure information and notices are disseminated to community-based organizations, legal services providers, bar associations, and others and can use ethnic media and local news sources in outreach efforts. Outreach may also include the use of multi-lingual audiovisual tools to provide general information about language access services, court procedures, and available resources, such as self-help centers. Video and audio technologies are efficient and effective ways to reach potential LEP court users at large.

The oral and written comments submitted to the working group emphasized the need for collaboration and partnerships. Closely working with community-based organizations and providers, such as social services, legal services providers, faith-based organizations, job training programs, adult school programs, and elementary, middle, and high schools, is the most effective way for courts to reach LEP populations that have traditionally avoided the courts. These collaborative efforts can also help courts identify community needs and community resources and can help courts improve the quality of their language access services

and their responsiveness to their communities. They can also help courts target more isolated LEP communities that are not normally reached through more traditional outreach mechanisms. Justice partners and community-based organizations can help distribute information, educate the public, and even provide community space and language access for court-community events and informational and educational clinics about court services such as self-help centers or alternative dispute resolution programs.

As was discussed in Goal 5, outreach can also be effective in any effort to develop a pipeline of language access providers. Courts, in their outreach to community-based organizations and educational institutions, can engage bilingual community members by (a) offering potential employment opportunities and a meaningful chance to help their communities, (b) providing opportunities for participation in the court as trained volunteers to learn about the justice system and to gain experience and job skills, and (c) encouraging these community members to invest the time and resources required to study and prepare to become a certified or registered court interpreter. (Goal 5 provides a specific recommendation for these collaborations to increase the pool of qualified language access providers throughout the court system.)

**Recommendations:**

53. Courts should strengthen existing relationships and create new relationships with local community-based organizations, including social services providers, legal services organizations, government agencies, and minority bar associations to gather feedback to improve court services for LEP court users and disseminate court information and education throughout the community. (Phase 3)

54. To maximize both access and efficiency, multilingual audio and/or video recordings should be used as part of the outreach efforts by courts to provide important general information and answers to frequently asked questions. (Phase 3)
55. Courts should collaborate with local media and leverage the resources of media outlets, including ethnic media that communicate with their consumers in their language, as a means of disseminating information throughout the community about language access services, the court process, and available court resources. (Phase 3)

## **Goal 8: Identify Systems, Funding, and Legislation Necessary for Plan Implementation and Language Access Management**

### **Goal Statement**

In order to complete the systematic expansion of language access services, the Judicial Council will (1) secure adequate funding that does not result in a reduction of other court services; (2) propose appropriate changes to the law, both statutory amendments and changes to the rules of court; and (3) develop systems for implementing the Language Access Plan, for monitoring the provision of language access services, and for maintaining the highest quality of language services.

### **a. Increased Funding**

#### *Issue Description*

As was discussed at the outset of this plan, the California judicial branch has seen significant funding cutbacks in past years forcing courts to close courtrooms and courthouses, cut hours of operations, lay off staff, and decrease or eliminate services altogether. Although this year a small amount of funding was restored, it was partially offset by the imposition of other financial obligations on the branch and a reduction in court revenues. Accordingly, courts throughout the state still struggle to meet their court users' most basic needs. For example, the presiding judge of Riverside County reported that residents of Needles—many of whom are low income, LEP individuals—must now travel 200 miles to reach the nearest courthouse. It is therefore imperative that there be increased funding for the judicial branch, and that any funding

provided by the Legislature for increasing language access not be at the expense of other branch funding. Basic, ongoing funding from the Legislature is essential and critical for effective implementation of the Language Access Plan.

However, there are other opportunities for funding for individual courts, in particular for projects designed to address the needs of low-income or LEP communities, especially in the areas of domestic violence and elder or dependent adult abuse. Some grant possibilities in recent years have included funding for innovative initiatives to use technology to expand access to the judicial system, partnership grants with legal services providers funded by the Equal Access Fund, pilot projects addressing particular needs of a court's communities, and State Bar grants for one-time discrete projects. Grant funding may have limitations since it often provides resources for one-time projects or needs, and may not be available for ongoing operational costs necessary to keep a project running beyond the original grant period. However, grant funding can also be an important resource for certain projects in the expansion of language access and the Judicial Council should support efforts at the local level to apply for relevant funding opportunities.

**Recommendations:**

56. The judicial branch will advocate for sufficient funding to provide comprehensive language access services. The funding requests should reflect the incremental phasing-in of the Language Access Plan, and should seek to ensure that requests do not jeopardize funding for other court services or operations. (Phase 1)

57. Funding requests for comprehensive language access services should be premised on the best available data that identifies the resources necessary to implement the recommendations of this Language Access Plan. This may include information being gathered in connection with the recent Judicial Council decision to expand the use of Program 45.45 funds for civil cases where parties are indigent;<sup>41</sup> information being gathered for the 2015 Language Need and Interpreter Use Report; and information that can be extrapolated from the Resource Assessment Study (which looks at court staff workload), as well as other court records (e.g., self-help center records regarding LEP court users). (Phase 1)
58. Judicial Council staff will pursue appropriate funding opportunities from federal, state, or nonprofit entities, such as the National Center for State Courts, which are particularly suitable for one-time projects, for example, translation of documents or production of videos. (Phase 1)
59. Courts should pursue appropriate funding opportunities at the national, state, or local level to support the provision of language access services. Courts should seek, for example, one-time or ongoing grants from public interest foundations, state or local bar associations, and federal, state, or local governments. (Phase 1)

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<sup>41</sup> The Legislature provides funding for interpreter services to the courts in a special item of the judicial branch budget (Program 45.45 of the Trial Court Trust Fund). At its public meeting on January 23, 2014, the Judicial Council approved recommendations that authorize reimbursement from Program 45.45 to include costs for all appearances in domestic violence cases, family law cases in which there is a domestic violence issue, and elder abuse cases, as well as interpreters for indigent parties in civil cases. At its public meeting on December 12, 2014, the council modified the action, approving expenditure of these funds consistent with the priorities and preferences set forth in AB 1657.



## **b. Language Access Plan Management**

### *Issue Description*

Stakeholders participating throughout the planning process agreed that, in order to ensure the success of a statewide language access plan, it is necessary to create systems for implementing the plan, for compliance and monitoring its effects on language access statewide, and for tracking the need for ongoing adjustments and improvements. Participants in the court system, from legal services providers to interpreters to court users themselves, emphasized the need for quality control measures, including mechanisms for making and resolving complaints about all aspects of the courts' language access services.

The Judicial Council's Court Language Access Support Program (CLASP) unit and the statewide Language Access Coordinator will be instrumental in providing centralized management of the Language Access Plan and in being available as a resource to local courts needing technical assistance or support to implement the provisions of this Language Access Plan as well as develop local procedures and policies. CLASP, in conjunction with other Judicial Council staff working on language access issues, can coordinate the sharing of existing language access materials developed by providers and courts throughout the state and nationally, and can coordinate efforts for developing further statewide materials (which local courts can then adapt to their unique needs). Because LEP court users may have language access needs for appellate matters (for example, needing assistance at the counter or understanding forms or procedures), this plan also recommends that the California Courts of Appeal and Supreme Court of California discuss and adopt applicable parts of the plan with necessary modifications.

A multifaceted complaint procedure is also essential to ensure the quality of the language access services delivered. Development of such a procedure must include, among other considerations, conferring with union representatives and impacted service providers to ensure the creation of a complaint system that will be respected by all who either provide or receive services. All participants in the court system, including LEP court users, attorneys, legal services providers, community-based organizations, interpreters, judicial officers, and other justice partners, must be able to register complaints if a court fails to provide adequate language access services, or if the services provided are of poor quality, whether the service involves bilingual staff, written translation, or interpreter employees or contractors. Any complaint procedure must be available to all, consistent and transparent, with procedures and forms, and should be utilized in a way that protects LEP court users or other interested persons from actual or perceived negative repercussions either to them personally or to the outcome of their case.

Complainants should be able to file their complaints confidentially, and advocates and attorneys should be allowed to register complaints or concerns on behalf of their LEP clients. Similarly, court staff, administrators, judges, subordinate judicial officers, and interpreters must be able to file a complaint regarding serious problems or concerns with the quality of interpretation provided by a given interpreter (whether this interpreter is a court employee, independent contractor, certified, registered, or provisionally qualified).

The confidentiality of complaint processes should be broadly communicated to all court users. In addition, information about the complaint process and any forms should be available in English and up to 5 other languages, based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations, and other entities working with LEP populations. Where not available in a certain language, the court should ensure the availability of bilingual staff or an interpreter to assist the LEP court user in completing the complaint form and to explain the written procedures.

**Recommendations:**

60. The Judicial Council will create a Language Access Implementation Task Force (name TBD) to develop an implementation plan for presentation to the council. The Implementation Task Force membership should include representatives of the key stakeholders in the provision of language access services in the courts, including, but not limited to, judicial officers, court administrators, court interpreters, legal services providers, and attorneys that commonly work with LEP court users. As part of its charge, the task force will identify the costs associated with implementing the LAP recommendations. The Implementation Task Force will coordinate with related advisory groups and Judicial Council staff on implementation, and will have the flexibility to monitor and adjust implementation plans based on feasibility and available resources. (Phase 1)
61. The Implementation Task Force will establish the necessary systems for monitoring compliance with this Language Access Plan. This will include oversight of the plan's

effects on language access statewide and at the individual court level, and assessing the need for ongoing adjustments and improvements to the plan. (Phase 1)

62. The Implementation Task Force will develop a single form, available statewide, on which to register a complaint about the provision of, or the failure to provide, language access. This form should be as simple, streamlined, and user-friendly as possible. The form will be available in both hard copy at the courthouse and online, and will be capable of being completed electronically or downloaded for printing and completion in writing. The complaints will also serve as a mechanism to monitor concerns related to language access at the local or statewide level. The form should be used as part of multiple processes identified in the following recommendations of this plan. (Phase 1)

63. Individual courts will develop a process by which LEP court users, their advocates and attorneys, or other interested persons may file a complaint about the court's provision of, or failure to provide, appropriate language access services, including issues related to locally produced translations. Local courts may choose to model their local procedures after those developed as part of the implementation process. Complaints must be filed with the court at issue and reported to the Judicial Council to assist in the ongoing monitoring of the overall implementation and success of the Language Access Plan. (Phase 1)

64. The Judicial Council, together with stakeholders, will develop a process by which the quality and accuracy of an interpreter's skills and adherence to ethical

requirements can be reviewed. This process will allow for appropriate remedial action, where required, to ensure certified and registered interpreters meet all qualification standards. Development of the process should include determination of whether California Rule of Court 2.891 (regarding periodic review of court interpreter skills and professional conduct) should be amended, repealed, or remain in place. Once the review process is created, information regarding how it can be initiated must be clearly communicated to court staff, judicial officers, attorneys, and in plain language to court users (e.g., LEP persons and justice partners). (Phase 2)

65. The translation committee (as described in Recommendation 36 above), in consultation with the Implementation Task Force, will develop a process to address complaints about the quality of Judicial Council–approved translations, including translation of Judicial Council forms, the California Courts Online Self-Help Center, and other Judicial Council–issued publications and information. (Phase 3)

66. The Judicial Council should create a statewide repository of language access resources, whether existing or to be developed, that includes translated materials, audiovisual tools, and other materials identified in this plan in order to assist courts in efforts to expand language access. (Phase 1)

67. The California Courts of Appeal and the Supreme Court of California should discuss and adopt applicable parts of this Language Access Plan with necessary modifications. (Phase 1)

**c. Necessary Court Rules, Forms, and Legislation for Plan Implementation**

*Issue Description*

Legislative action to amend, delete, or add statutory language, and Judicial Council action to create or revise court forms or rules of court, will be necessary to fully and effectively implement the recommendations contained in this Language Access Plan. Such actions should include clarification of existing statutes, the amendment of the existing rule of court for provisional qualification of interpreters in civil cases, and the development of a policy for an LEP court user's ability to request a waiver of interpreter services.

During the public hearings and listening sessions, court administrators described the difficulties that certain aspects of the Trial Court Interpreter Employment and Labor Relations Act pose for courts in their efforts to efficiently schedule interpreters. Of particular concern was Government Code section 71802, which limits individual courts from using a particular independent contractor more than 100 days per calendar year, and also requires that courts offer independent contractors who have been appointed more than 45 court days in the same year the opportunity to apply for employment. Court administrators expressed concern that adding additional civil case types that require an interpreter will cause courts to reach the 100-day limit for individual independent court interpreter contractors more quickly, making them unavailable to meet the court's future needs within that year, while also forcing independent contractors to accept opportunities in counties outside their geographic area of choice. Administrators also raised concerns about the inefficiencies of requiring that interpreter coordinators be certified or registered interpreters to be funded from interpreter funding,

which then limits the time that the credentialed coordinator can provide interpreting services. Where interpreter resources are tight, the policy of using a credentialed interpreter for administrative tasks, thus removing him or her from the courtroom, should be revisited.

In addition to the recommendations listed below, the Joint Working Group recognizes that additional rules, statute, or form changes may be necessary to implement the recommendations contained in this plan.

**Recommendations:**

68. To ensure ongoing and effective implementation of the LAP, the Implementation Task Force will evaluate, on an ongoing basis, the need for new statutes or rules or modifications of existing rules and statutes. (Phases 2 and 3)
69. The Judicial Council should establish procedures and guidelines for determining “good cause” to appoint non-credentialed court interpreters in civil matters. (Phase 1)
70. The Judicial Council should amend rule of court 2.893 to address the appointment of non-credentialed interpreters in civil proceedings. (Phase 1)
71. The Judicial Council should sponsor legislation to amend Government Code section 68560.5(a) to include small claims proceedings in the definition of court proceedings for which qualified interpreters must be provided. (Phase 2)
72. The Judicial Council should sponsor legislation to amend Code of Civil Procedure section 116.550 dealing with small claims actions to reflect that interpreters in

- small claims cases should, as with other matters, be certified or registered, or provisionally qualified where a credentialed interpreter is not available. (Phase 2)
73. The Judicial Council should update the interpreter-related court forms (INT-100-INFO, INT-110, INT-120, and INT-200) as necessary to be consistent with this plan. (Phase 2)
74. The Implementation Task Force should evaluate existing law, including a study of any negative impacts of the Trial Court Interpreter Employment and Labor Relations Act on the provision of appropriate language access services. The evaluation should include, but not be limited to, whether any modifications should be proposed for existing requirements and limitations on hiring independent contractors beyond a specified number of days. (Phase 2)
75. The Implementation Task Force will develop a policy addressing an LEP court user's request of a waiver of the services of an interpreter. The policy will identify standards to ensure that any waiver is knowing, intelligent, and voluntary; is made after the person has consulted with counsel; and is approved by the appropriate judicial officer, exercising his or her discretion. The policy will address any other factors necessary to ensure the waiver is appropriate, including: determining whether an interpreter is necessary to ensure the waiver is made knowingly; ensuring that the waiver is entered on the record,<sup>42</sup> or in writing if there is no official record of the proceedings; and requiring that a party may request at any time, or the court may make on its own motion, an order vacating the waiver and

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<sup>42</sup> See footnote 31 above.



appointing an interpreter for all further proceedings. The policy shall reflect the expectation that waivers will rarely be invoked in light of access to free interpreter services and the Implementation Task Force will track waiver usage to assist in identifying any necessary changes to policy. (Phase 1)

## **Appendix A: Phase-In of Recommendations**

**PHASE 1: These recommendations are urgent or should already be in place. Implementation of these recommendations should begin in year 1 (2015).**

**#1 Language access needs identification.** Courts will identify the language access needs for each LEP court user, including parties, witnesses, or other persons with a significant interest, at the earliest possible point of contact with the LEP person. The language needs will be clearly and consistently documented in the case management system and/or any other case record or file, as appropriate given a court's existing case information record system, and this capability should be included in any future system upgrades or system development. (Phase 1)

**#2 Requests for language services.** A court's provision or denial of language services must be tracked in the court's case information system, however appropriate given a court's capabilities. Where current tracking of provision or denial is not possible, courts must make reasonable efforts to modify or update their systems to capture relevant data as soon as feasible. (Phases 1, 2)

**#3 Protocol for justice partners to communicate language needs.** Courts should establish protocols by which justice partners can indicate to the court that an individual requires a spoken language interpreter at the earliest possible point of contact with the court system. (Phase 1)

**#4 Mechanisms for LEP court users to self-identify.** Courts will establish mechanisms that invite LEP persons to self-identify as needing language access services upon contact with any part of the court system (using, for example, "I speak" cards [see page 56 for a sample card]). In the absence of self-identification, judicial officers and court staff must proactively seek to ascertain a court user's language needs. (Phase 1)

**#5 Information for court users about availability of language access services.** Courts will inform court users about the availability of language access services at the earliest points of contact between court users and the court. The notice must include, where accurate and appropriate, that language access services are free. Courts should take into account that the need for language access services may occur earlier or later in the court process, so information about language services must be available throughout the duration of a case. Notices should be in English and up to five other languages based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations, and other entities working with LEP populations. Notice must be provided to the public, justice partners, legal services agencies, community-based organizations, and other entities working with LEP populations. (Phase 1)

**#6 Expansion of language services cost reporting.** The Judicial Council and the courts will continue to expand and improve data collection on interpreter services, and expand language services cost reporting to include amounts spent on other language access services and tools

such as translations, interpreter or language services coordination, bilingual pay differential for staff, and multilingual signage or technologies. This information is critical in supporting funding requests as the courts expand language access services into civil cases. (Phase 1)

**#8 Expansion of court interpreters to all civil proceedings.** Qualified interpreters must be provided in the California courts to LEP court users in all court proceedings, including civil proceedings as prioritized in Evidence Code section 756 (see Appendix H), and including Family Court Services mediation. (Phases 1 and 2)

**#9 Provisional qualification requirements.** Pending amendment of California Rules of Court, rule 2.893, when good cause exists, a noncertified or nonregistered court interpreter may be appointed in a court proceeding in any matter, civil or criminal, only after he or she is determined to be qualified by following the procedures for provisional qualification. These procedures are currently set forth, for criminal and juvenile delinquency matters, in rule 2.893 (and, for civil matters, will be set forth once the existing rule of court is amended). (See Recommendation 50, on training for judicial officers and court staff regarding the provisional qualification procedures, and Recommendation 70, on amending rule 2.893 to include civil cases.) (Phases 1 and 2)

**#10 Provision of qualified interpreters in all court-ordered/court-operated proceedings.** Beginning immediately, as resources are available, but in any event no later than 2020, courts will provide qualified court interpreters in all court-ordered, court-operated programs, services and events, to all LEP litigants, witnesses, and persons with a significant interest in the case. (Phases 1, 2, and 3)

**#12 Preference for in-person interpreters.** The use of in-person, certified and registered court interpreters is preferred for court proceedings, but courts may consider the use of remote interpreting where it is appropriate for a particular event. Remote interpreting may only be used if it will allow LEP court-users to fully and meaningfully participate in the proceedings. (Phase 1)

**#13 Remote interpreting in the courtroom.** When using remote interpreting in the courtroom, the court must satisfy, to the extent feasible, the prerequisites, considerations and guidelines for remote interpreting set forth in Appendix B. (Phase 1)

**#14 Remote interpreting minimum technology requirements.** The Implementation Task Force will establish minimum technology requirements for remote interpreting which will be updated on an ongoing basis and which will include minimum requirements for both simultaneous and consecutive interpreting. (Phase 1)

**#15 Use of video for remote interpreting.** Courts using remote interpreting should strive to provide video, used in conjunction with enhanced audio equipment, for courtroom interpretations, rather than relying on telephonic interpreting. (Phase 1)

**#16 Pilot for video remote interpreting.** The Judicial Council should conduct a pilot project, in alignment with the Judicial Branch’s Tactical Plan for Technology 2014–2016. This pilot should, to the extent possible, collect relevant data on: due process issues, participant satisfaction, whether remote interpreting increases the use of certified and registered interpreters as opposed to provisionally qualified interpreters, the effectiveness of a variety of available technologies (for both consecutive and simultaneous interpretation), and a cost-benefit analysis. The Judicial Council should make clear that this pilot project would not preclude or prevent any court from proceeding on its own to deploy remote interpreting, so long as it allows LEP court users to fully and meaningfully participate in the proceedings. (Phase 1)

**#18 Creation of multilingual standardized videos.** The Judicial Council should continue to create multilingual standardized videos for high-volume case types that lend themselves to generalized, not localized, legal information, and provide them to courts in the state’s top eight languages and captioned in other languages. (Phase 1)

**#19 Verifying credentials of interpreters.** Effective January 2015, pursuant to Government Code section 68561 (g) and (f), judicial officers, in conjunction with court administrative personnel, must ensure that the interpreters being appointed are qualified, properly represent their credentials on the record, and have filed with the court their interpreter oaths. (See Recommendation 50, which discusses training of judicial officers and court staff on these subjects.) (Phase 1)

**#22 Avoiding conflicts of interest.** Absent exigent circumstances, when appointing a noncertified, nonregistered interpreter, courts must not appoint persons with a conflict of interest conflict of interest or bias with respect to the matter. (Phase 1)

**#23 Appointment of minors to interpret.** Minors will not be appointed to interpret in courtroom proceedings nor court-ordered and court-operated activities. (Phase 1)

**#25 Designation of language access office or representative.** The court in each county will designate an office or person that serves as a language access resource for all court users, as well as court staff and judicial officers. This person or persons should be able to: describe all the services the court provides and what services it does not provide, access and disseminate all of the court’s multilingual written information as requested, and help LEP court users and court staff locate court language access resources. (Phase 1)

**#26 Identification of critical points of contact.** Courts should identify which points of contact are most critical for LEP court users, and, whenever possible, should place qualified bilingual staff at these locations. (See Recommendation 47, which discusses possible standards for the appropriate qualification level of bilingual staff at these locations.) (Phase 1)

**#28 Recruitment of bilingual staff.** Courts should strive to recruit bilingual staff fluent in the languages most common in that county. In order to increase the bilingual applicant pool, courts should conduct outreach to educational providers in the community, such as local high schools,

community colleges, and universities, to promote the career opportunities available to bilingual individuals in the courts. (Phase 1)

**#34 Use of bilingual volunteers.** Courts should consider the use of bilingual volunteers to provide language access services at points of contact other than court proceedings, where appropriate. Bilingual volunteers and interns must be properly trained and supervised. (Phase 1)

**#36 Establishment of translation committee.** The Judicial Council will create a translation committee to develop and formalize a translation protocol for Judicial Council translations of forms, written materials, and audiovisual tools. The committee should collaborate with interpreter organizations and courts to develop a legal glossary in all certified languages, taking into account regional differences, to maintain consistency in the translation of legal terms. The committee's responsibilities will also include identifying qualifications for translators, and the prioritization, coordination, and oversight of the translation of materials. The qualification of translators should include a requirement to have a court or legal specialization and be accredited by the American Translators Association (ATA), or to have been determined qualified to provide the translations based on experience, education, and references. Once the Judicial Council's translation protocol is established, individual courts should establish similar quality control and translation procedures for local forms, informational materials, recordings, and videos aimed at providing information to the public. Local court website information should use similarly qualified translators. Courts are encouraged to partner with local community organizations to accomplish this recommendation. (Phase 1)

**#37 Statewide and multilingual samples and templates.** The Judicial Council staff will work with courts to provide samples and templates of multilingual information for court users that are applicable on a statewide basis and adaptable for local use. (Phase 1)

**#38 Posting of translations on web.** The Judicial Council's staff will post on the California Courts website written translations of forms and informational and educational materials for the public as they become available and will send notice to the courts of their availability so that courts can link to these postings from their own websites. (Phase 1)

**#40 Translation of court orders.** Courts will provide sight translation of court orders and should consider providing written translations of those orders to LEP persons when needed. At a minimum, courts should provide the translated version of the relevant Judicial Council form to help litigants compare their specific court order to the translated template form. (Phase 1)

**#43 Standards for qualifications of interpreters.** Courts, the Judicial Council, and the Court Interpreters Advisory Panel (CIAP) will ensure that all interpreters providing language access services to limited English proficient court users are qualified and competent. Existing standards for qualifications should remain in effect and will be reviewed regularly by the CIAP. (Phase 1)

**#44 Online orientation for new interpreters.** The online statewide orientation program will continue to be available to facilitate orientation training for new interpreters working in the courts. (Phase 1)

**#45 Training for prospective interpreters.** The Judicial Council and the courts should work with interpreter organizations and educational providers (including the California community college and state university systems) to examine ways to better prepare prospective interpreters to pass the credentialing examination. These efforts should include:

- Partnering to develop possible exam preparation courses and tests, and
- Creating internship and mentorship opportunities in the courts and in related legal settings (such as work with legal services providers or other legal professionals) to help train and prepare prospective interpreters in all legal areas.

(Phase 1)

**#46 Training for interpreters on civil cases and remote interpreting.** The Judicial Council, interpreter organizations, and educational groups should collaborate to create training programs for those who will be interpreting in civil cases and those who will be providing remote interpreting. (Phase 1)

**#47 Language proficiency standards for bilingual staff.** Courts must ensure that bilingual staff providing information to LEP court users are proficient in the languages in which they communicate. All staff designated as bilingual staff by courts must at a minimum meet standards corresponding to "Intermediate mid" as defined under the American Council on the Teaching of Foreign Languages guidelines. (See Appendix F.) The existing Oral Proficiency Exam available through the Judicial Council's Court Language Access Support Program (CLASP) unit may be used by courts to establish foreign-language proficiency of staff. Courts should not rely on self-evaluation by bilingual staff in determining their language proficiency. (Phase 1)

**#48 Standards and online training for bilingual staff.** Beyond the specified minimum, the Judicial Council staff will work with the courts to (a) identify standards of language proficiency for specific points of public contact within the courthouse, and (b) develop and implement an online training for bilingual staff. (Phase 1)

**#50 Judicial branch training regarding Language Access Plan.** Judicial officers, including temporary judges, court administrators, and court staff will receive training regarding the judicial branch's language access policies and requirements as delineated in this Language Access Plan, as well as the policies and procedures of their individual courts. Courts should schedule additional training when policies are updated or changed. These trainings should include:

- Optimal methods for managing court proceedings involving interpreters, including an understanding of the mental exertion and concentration required for interpreting, the challenges of interpreter fatigue, the need to control rapid rates of speech and dialogue, and consideration of team interpreting where appropriate;

- The interpreter’s ethical duty to clarify issues during interpretation and to report impediments to performance;
- Required procedures for the appointment and use of a provisionally qualified interpreter and for an LEP court user’s waiver, if requested, of interpreter services;
- Legal requirements for establishing, on the record, an interpreter’s credentials;
- Available technologies and minimum technical and operational standards for providing remote interpreting; and
- Working with LEP court users in a culturally competent manner.

The staff of the Judicial Council will develop curricula for trainings, as well as resource manuals that address all training components, and distribute them to all courts for adaptation to local needs. (Phase 1)

**#52. Benchcards on language access.** Judicial Council staff should develop bench cards that summarize salient language access policies and procedures and available resources to assist bench officers in addressing language issues that arise in the courtroom, including policies related to remote interpreting. (Phase 1)

**#56 Advocacy for sufficient funding.** The judicial branch will advocate for sufficient funding to provide comprehensive language access services. The funding requests should reflect the incremental phasing-in of the Language Access Plan, and should seek to ensure that requests do not jeopardize funding for other court services or operations. (Phase 1)

**#57 Use of data for funding requests.** Funding requests for comprehensive language access services should be premised on the best available data that identifies the resources necessary to implement the recommendations of this Language Access Plan. This may include information being gathered in connection with the recent Judicial Council decision to expand the use of Program 45.45 funds for civil cases where parties are indigent; information being gathered for the 2015 Language Need and Interpreter Use Report; and information that can be extrapolated from the Resource Assessment Study (which looks at court staff workload), as well as other court records (e.g., self-help center records regarding LEP court users). (Phase 1)

**#58 Pursuit by the Judicial Council of other funding opportunities.** Judicial Council staff will pursue appropriate funding opportunities from federal, state, or nonprofit entities such as the National Center for State Courts, which are particularly suitable for one-time projects, for example, translation of documents or production of videos. (Phase 1)

**#59 Pursuit by courts of other funding opportunities.** Courts should pursue appropriate funding opportunities at the national, state, or local level to support the provision of language access services. Courts should seek, for example, one-time or ongoing grants from public interest foundations, state or local bar associations, federal, state, or local governments, and others. (Phase 1)

**#60 Language Access Implementation Task Force.** The Judicial Council will create a Language Access Implementation Task Force (name TBD) to develop an implementation plan for

presentation to the council. The Implementation Task Force membership should include representatives of the key stakeholders in the provision of language access services in the courts, including, but not limited to, judicial officers, court administrators, court interpreters, legal services providers, and attorneys that commonly work with LEP court users. As part of its charge, the task force will identify the costs associated with implementing the LAP recommendations. The Implementation Task Force will coordinate with related advisory groups and Judicial Council staff on implementation, and will have the flexibility to monitor and adjust implementation plans based on feasibility and available resources. (Phase 1)

**#61 Compliance and monitoring system.** The Implementation Task Force will monitor compliance monitoring with this Language Access Plan. This will include oversight of the plan's effects on language access statewide and at the individual court level, and assessing the need for ongoing adjustments and improvements to the plan. (Phase 1)

**#62 Single complaint form.** The Implementation Task Force will develop a single form, available statewide, on which to register a complaint about the provision of, or the failure to provide, language access. This form should be as simple, streamlined, and user-friendly as possible. The form will be available in both hard copy at the courthouse and online, and will be capable of being completed electronically or downloaded for printing and completion in writing. The complaints will also serve as a mechanism to monitor concerns related to language access at the local or statewide level. The form should be used as part of multiple processes identified in the following recommendations of this plan. (Phase 1)

**#63 Complaints at local level regarding language access services.** Individual courts will develop a process by which LEP court users, their advocates and attorneys, or other interested persons may file a complaint about the court's provision of, or failure to provide, appropriate language access services, including issues related to locally produced translations. Local courts may choose to model their local procedures after those developed as part of the implementation process. Complaints must be filed with the court at issue and reported to the Judicial Council to assist in the ongoing monitoring of the overall implementation and success of the Language Access Plan. (Phase 1)

**#66 Statewide repository of language access resources.** The Judicial Council should create a statewide repository of language access resources, whether existing or to be developed, that includes translated materials, audiovisual tools, and other materials identified in this plan in order to assist courts in efforts to expand language access. (Phase 1)

**#67 Adoption of plan by the California Courts of Appeal and California Supreme Court.** The California Courts of Appeal and the Supreme Court of California should discuss and adopt applicable parts of this Language Access Plan with necessary modifications. (Phase 1)

**#69 Procedures and guidelines for good cause.** The Judicial Council should establish procedures and guidelines for determining "good cause" to appoint non-credentialed court interpreters in civil matters. (Phase 1)



**#70 Amend rule of court for appointment of interpreters in civil proceedings.** The Judicial Council should amend rule of court 2.893 to address the appointment of non-credentialed interpreters in civil proceedings. (Phase 1)

**#75 Policy regarding waiver of interpreter.** The Implementation Task Force will develop a policy addressing an LEP court user's request of a waiver of the services of an interpreter. The policy will identify standards to ensure that any waiver is knowing, intelligent, and voluntary; is made after the person has consulted with counsel; and is approved by the appropriate judicial officer, exercising his or her discretion. The policy will address any other factors necessary to ensure the waiver is appropriate, including: determining whether an interpreter is necessary to ensure the waiver is made knowingly; ensuring that the waiver is entered on the record,<sup>43</sup> or in writing if there is no official record of the proceedings; and requiring that a party may request at any time, or the court may make on its own motion, an order vacating the waiver and appointing an interpreter for all further proceedings. The policy shall reflect the expectation that waivers will rarely be invoked in light of access to free interpreter services and the Implementation Task Force will track waiver usage to assist in identifying any necessary changes to policy. (Phase 1)

**PHASE 2: These recommendations are critical, but less urgent or may require completion of Phase 1 tasks. Implementation of these recommendations may begin immediately, where practicable, and in any event should begin by years 2–3 (2016–2017).**

**#2 Requests for language services.** A court's provision or denial of language services must be tracked in the court's case information system, however appropriate given a court's capabilities. Where current tracking of provision or denial is not possible, courts must make reasonable efforts to modify or update their systems to capture relevant data as soon as feasible. (Phases 1, 2)

**#7 Review of other data beyond the U.S. Census.** The Judicial Council and the courts should collect data in order to anticipate the numbers and languages of likely LEP court users. Whenever data is collected, including for these purposes, the courts and the Judicial Council should look at other sources of data beyond the U.S. Census, such as school systems, health departments, county social services, and local community-based agencies. (Phase 2)

**#8 Expansion of court interpreters to all civil proceedings.** Qualified interpreters must be provided in the California courts to LEP court users in all court proceedings, including civil proceedings as prioritized in Evidence Code section 756 (see Appendix H), and including Family Court Services mediation. (Phases 1 and 2)

**#9 Provisional qualification requirements.** Pending amendment of California Rules of Court, rule 2.893, when good cause exists, a noncertified or nonregistered court interpreter may be

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<sup>43</sup> See footnote 31 above.

appointed in a court proceeding in any matter, civil or criminal, only after he or she is determined to be qualified by following the procedures for provisional qualification. These procedures are currently set forth, for criminal and juvenile delinquency matters, in rule 2.893 (and, for civil matters, will be set forth once the existing rule of court is amended). (See Recommendation 50, on training for judicial officers and court staff regarding the provisional qualification procedures, and Recommendation 70, on amending rule 2.893 to include civil cases.) (Phases 1 and 2)

**#10 Provision of qualified interpreters in all court-ordered/court-operated proceedings.**

Beginning immediately, as resources are available, but in any event no later than 2020, courts will provide qualified court interpreters in all court-ordered, court-operated programs, services and events, to all LEP litigants, witnesses, and persons with a significant interest in the case. (Phases 1, 2, and 3)

**#11 Consideration of language accessibility of service providers in making court orders.** An LEP individual should not be ordered to participate in a court ordered program if that program does not provide appropriate language accessible services. If a judicial officer does not order participation in services due to the program's lack of language capacity, the court should order the litigant to participate in an appropriate alternative program that provides language access services for the LEP court user. In making its findings and orders, the court should inquire if the program provides language access services to ensure the LEP court user's ability to meet the requirements of the court. (Phase 2)

**#17 Pilot for central pool of remote interpreters.** In order to maximize the use and availability of California's highly skilled certified and registered interpreters, the Judicial Council should consider creating a pilot program through which certified and registered interpreters would be available to all courts on a short-notice basis to provide remote interpreting services. (Phase 2)

**#20 Expansion of regional coordination system.** The Judicial Council should expand the existing formal regional coordination system to improve efficiencies in interpreter scheduling for court proceedings and cross-assignments between courts throughout the state. (See Recommendation 30, addressing coordination for bilingual staff and interpreters for non-courtroom events.) (Phase 2)

**#21 Methods for calendaring and coordination of court interpreters.** Courts should continue to develop methods for using interpreters more efficiently and effectively, including but not limited to calendar coordination. Courts should develop these systems in a way that does not have a chilling effect on their access to court services. (Phase 2)

**#24 Appointment of bilingual staff.** Absent exigent circumstances, courts should avoid appointing bilingual court staff to interpret in courtroom proceedings; if the court does appoint staff, he or she must meet all of the provisional qualification requirements. (Phase 2)

**#27 Provision of language access tools to court personnel.** All court staff who engage with the public will have access to language assistance tools, such as translated materials and resources, multi-language glossaries and “I speak” cards, to determine a court user’s native language, direct him or her to the designated location for language services, and/or provide the LEP individual with brochures, instructions, or other information in the appropriate language. (Phase 2)

**#29 Development of protocols for where bilingual staff are not available.** Courts will develop written protocols or procedures to ensure LEP court users obtain adequate language access services where bilingual staff are not available. For example, the court’s interpreter coordinator could be on call to identify which interpreters or staff are available and appropriate to provide services in the clerk’s office or self-help center. Additionally, the use of remote technologies such as telephone access to bilingual staff persons in another location or remote interpreting could be instituted. (Phase 2)

**#30 Policies that promote sharing of bilingual staff and interpreters among courts.** The Judicial Council should consider adopting policies that promote sharing of bilingual staff and certified and registered court interpreters among courts, using remote technologies, for language assistance outside of court proceedings. (Phase 2)

**#31 Pilot for remote assistance at counters and in self-help centers.** The courts and the Judicial Council should consider a pilot to implement the use of remote interpreter services for counter help and at self-help centers, incorporating different solutions, including court-paid cloud-based fee-for-service models or a court/centralized bank of bilingual professionals. (Phase 2)

**#32 Pilot for remote assistance for workshops.** The courts should consider a pilot to implement inter-court, remote attendance at workshops, trainings, or “information nights” conducted in non-English languages using a variety of equipment, including telephone, video-conferencing (WebEx, Skype), or other technologies. (Phase 2)

**#33 Qualifications of court-appointed professionals.** In matters with LEP court users, courts must determine that court-appointed professionals, such as psychologists, mediators, and guardians, can provide linguistically accessible services before ordering or referring LEP court users to those professionals. Where no such language capability exists, courts should make reasonable efforts to identify or enter into contracts with providers able to offer such language capabilities, either as bilingual professionals who can provide the service directly in another language or via qualified interpreters. (Phase 2)

**#39 Signage throughout courthouse.** The staff of the Judicial Council should assist courts by providing plain-language translations of the most common and relevant signs likely to be used in a courthouse, and provide guidance on the use of internationally recognized icons, symbols, and displays to limit the need for text and, therefore, translation. Where more localized signage is required, courts should have all public signs in English and translated in up to five other languages based on local community needs assessed through collaboration with and

information from justice partners, including legal services providers, community-based organizations, and other entities working with LEP populations. At a minimum, all such materials should be available in English and Spanish. (Phase 2)

**#41 Accessible courthouses.** The Judicial Council, partnering with courts, should ensure that new courthouse construction efforts, as well as redesign of existing courthouse space, are undertaken with consideration for making courthouses more easily navigable by all LEP persons. (Phase 2)

**#42 Wayfinding strategies.** The Judicial Council's staff will provide information to courts interested in better wayfinding strategies, multilingual (static and dynamic) signage, and other design strategies that focus on assisting LEP court users. (Phase 2)

**#49 Recruitment strategies for language access providers.** The Judicial Council staff will work with educational providers, community-based organizations, and interpreter organizations to identify recruitment strategies, including consideration of market conditions, to encourage bilingual individuals to pursue the interpreting profession or employment opportunities in the courts as bilingual staff. (Phase 2)

**#51 Language access resources on intranet.** Information on local and statewide language access resources, training and educational components identified throughout this plan, glossaries, signage, and other tools for providing language access should be readily available to all court staff through individual courts' intranets. (Phases 2 and 3)

**#64. Complaints regarding court interpreters.** The Judicial Council, together with stakeholders, will develop a process by which the quality and accuracy of an interpreter's skills and adherence to ethical requirements can be reviewed. This process will allow for appropriate remedial action, where required, to ensure certified and registered interpreters meet all qualification standards. Development of the process should include determination of whether California Rule of Court 2.891 (regarding periodic review of court interpreter skills and professional conduct) should be amended, repealed, or remain in place. Once the review process is created, information regarding how it can be initiated must be clearly communicated to court staff, judicial officers, attorneys, and in plain language to court users (e.g., LEP persons and justice partners). (Phase 2)

**#68. Implementation Task Force to evaluate need for updates to rules and statutes.** To ensure ongoing and effective implementation of the LAP, the Implementation Task Force will evaluate, on an ongoing basis, the need for new statutes or rules or modifications of existing rules and statutes. (Phases 2 and 3)

**#71 Legislation to delete exception for small claims proceedings.** The Judicial Council should sponsor legislation to amend Government Code section 68560.5(a) to include small claims proceedings in the definition of court proceedings for which qualified interpreters must be provided. (Phase 2)

**#72 Legislation to require credentialed interpreters for small claims.** The Judicial Council should sponsor legislation to amend Code of Civil Procedure section 116.550 dealing with small claims actions to reflect that interpreters in small claims cases should, as with other matters, be certified or registered, or provisionally qualified where a credentialed interpreter is not available. (Phase 2)

**#73 Updating of interpreter-related forms.** The Judicial Council should update the interpreter-related court forms (INT-100-INFO, INT-110, INT-120, and INT-200) as necessary to be consistent with this plan. (Phase 2)

**#74 Evaluation of Trial Court Interpreter Employment and Labor Relations Act.** The Implementation Task Force should evaluate existing law, including a study of any negative impacts of the Trial Court Interpreter Employment and Labor Relations Act on the provision of appropriate language access services. The evaluation should include, but not be limited to, whether any modifications should be proposed for existing requirements and limitations on hiring independent contractors beyond a specified number of days. (Phase 2)

**PHASE 3: These recommendations are critical, but not urgent, or are complex and will require significant foundational steps, time, and resources to be completed by 2020. Implementation of these recommendations should begin immediately, where practicable, or immediately after the necessary foundational steps are in place.**

**#10 Provision of qualified interpreters in all court-ordered/court-operated proceedings.** Beginning immediately, as resources are available, but in any event no later than 2020, courts will provide qualified court interpreters in all court-ordered, court-operated programs, services and events, to all LEP litigants, witnesses, and persons with a significant interest in the case. (Phases 1, 2, and 3)

**#35 Pilot programs for language access kiosks.** As an alternative for traditional information dissemination, the Judicial Council should consider creating pilot programs to implement the use of language access kiosks in lobbies or other public waiting areas to provide a variety of information electronically, such as on a computer or tablet platform. This information should be in English and up to five other languages based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations, and other entities working with LEP populations. At a minimum, all such materials should be available in English and Spanish. (Phase 3)

**#51 Language access resources on intranet.** Information on local and statewide language access resources, training and educational components identified throughout this plan, glossaries, signage, and other tools for providing language access should be readily available to all court staff through individual courts' intranets. (Phases 2 and 3)

**#53 Partnerships to disseminate information.** Courts should strengthen existing relationships and create new relationships with local community-based organizations, including social services providers, legal services organizations, government agencies, and minority bar associations to gather feedback to improve court services for LEP court users and disseminate court information and education throughout the community. (Phase 3)

**#54 Multilingual audio or video recordings to inform public.** To maximize both access and efficiency, multilingual audio and/or video recordings should be used as part of the outreach efforts by courts to provide important general information and answers to frequently asked questions. (Phase 3)

**#55 Collaboration with media.** Courts should collaborate with local media and leverage the resources of media outlets, including ethnic media that communicate with their consumers in their language, as a means of disseminating information throughout the community about language access services, the court process, and available court resources. (Phase 3)

**#65. Complaints regarding statewide translations.** The translation committee (as described in Recommendation 36 above), in consultation with the Implementation Task Force, will develop a process to address complaints about the quality of Judicial Council–approved translations, including translation of Judicial Council forms, the California Courts Online Self-Help Center, and other Judicial Council–issued publications and information. (Phase 3)

**#68. Implementation Task Force to evaluate need for updates to rules and statutes.** To ensure ongoing and effective implementation of the LAP, the Implementation Task Force will evaluate, on an ongoing basis, the need for new statutes or rules or modifications of existing rules and statutes. (Phases 2 and 3)

**Appendix B: Prerequisites, Considerations, and Guidelines for Remote Interpreting in Court Proceedings<sup>44</sup>**

**Before a court begins using remote interpreting (RI) they must meet certain prerequisites that are outlined below. Additionally, prior to selecting RI for a particular courtroom event the court must consider, at minimum, the following specific factors for determining the appropriateness of RI. When utilizing RI for a courtroom event the court must adhere to the guidelines below.**

**PREREQUISITES**

- A. Minimum Technology Requirements for Remote Interpreting:  
Prior to instituting RI in any proceeding the court should ensure that it has the equipment and technology to provide high quality communications. (Until the Implementation Task Force has established technology minimums for RI, as required under Recommendation 14, Appendix D should be consulted on an interim basis.)
- B. Training:  
Prior to instituting RI in a proceeding, the court should ensure that all persons who will be involved in the RI event have adequate training in the use of the equipment, in interpreting protocols, and in interactions with LEP persons.

**CONSIDERATIONS FOR DETERMINING APPROPRIATENESS OF RI FOR COURT EVENT**

Not all courtroom proceedings are appropriate for RI. The initial analysis for determining whether a court proceeding is appropriate for RI will most likely be made by the interpreter coordinator who may choose to consult with the interpreter being considered for the assignment. Courtroom proceedings that are lengthy, complex, or involve more than simple evidence are not typically appropriate for RI. Additionally, the interpreter coordinator or the judicial officer or both should consider all of the following before deciding to use RI:

- The anticipated length and complexity of the event, including complexity of the communications involved;
- The relative convenience or inconvenience to the court user;
- Whether the matter is uncontested;

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<sup>44</sup> This appendix contains suggested guidelines based on current best practices and, as such, should be subject to updating and revision to accommodate advances in technology that will help ensure quality communication with LEP court users.

- Whether the proceeding is of an immediate nature, such as arraignments for in- custody defendants, bail reductions, and temporary restraining orders;
- Whether the LEP party is present in the courtroom;
- The number of court users planned to receive interpretation from the same interpreter during the event;
- The efficient deployment of court resources;
- Whether the LEP party requires a relay interpreter, e.g., where there is an interpreter for an indigenous language who relays the interpretation in Spanish. (The need for a relay interpreter does not preclude the use of RI, but might necessitate the presence of at least one of the interpreters in the courtroom.)

### **GUIDELINES FOR USING RI IN A COURT PROCEEDING**

#### **1. Need to Interrupt or Clarify, and Suspend and Reschedule**

When using RI the court should consult with the interpreter to determine how best to facilitate interruptions or clarifications that may be needed. The court should suspend and reschedule a matter if, for technology or other reasons, RI is not facilitating effective communication, or if the interpreter finds the communications to be ineffective.

#### **2. VRI and RI Challenges**

The court shall be mindful of the particular challenges involved in remote interpreting, including increased fatigue and stress; events involving remote interpreting should have shorter sessions and more frequent breaks.

#### **3. Participants Who Must Have Access**

The remote interpreter's voice must be heard clearly throughout the court room, and the interpreter must be able to hear all participants.

#### **4. Visual/Auditory Issues, Confidentiality, and Modes of Interpreting**

Video remote interpreting (VRI) is generally preferred over other methods of remote interpreting that do not provide visual cues, such as telephonic interpreting. However, there will be situations where VRI is not possible or is not necessary. (See Appendix D for visual/auditory issues and requirements for confidentiality that must be considered and accounted for when implementing RI.)

#### **5. Documents and Other Information**

The court shall ensure the availability of technology to communicate written information to the interpreter including a copy of exhibits being introduced, as well as information after a



proceeding, such as an order, so the interpreter can provide sight translation to the LEP individual if needed.

## 6. Professional Standards and Ethics

The same rules for using qualified interpreters apply to assignments using RI. It is the intent of this language access plan to expand the availability of certified and registered interpreters through the use of RI. All interpreters performing RI should be familiar with, and are bound by, the same professional standards and ethics as onsite court interpreters.<sup>45</sup>

## 7. Data Collection

(a) Courts using RI in the courtroom should monitor the effectiveness of their technology and equipment, and the satisfaction of participants.

(b) For purposes of supporting funding requests, courts should track the benefits and resource savings resulting from RI on an ongoing basis (e.g., increased certified/registered interpreter availability to assist with additional events due to the use of RI, and any cost savings).

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<sup>45</sup> The requirements for provisionally qualifying an interpreter can be found in Government Code section 68651(c) and California Rules of Court, rule 2.893.

**Appendix C: Suggested Language for the Judicial Officer When Considering Objections  
Related to Remote Interpreting**

We will have a court certified/registered \_\_(*insert language*)\_\_\_\_\_ interpreter help us with these proceedings.

The interpreter is at a remote location and will appear in court via video- (or audio-) conference. Please remember to speak slowly and clearly and not speak at the same time as each other.

Do parties and counsel have any objections to the interpreter remotely participating by remote interpreting for today’s proceedings?

*[Judge rules on objections, if any, or assists in resolving concerns.]*

*IF PROCEEDING WITH VRI:*

Parties and counsel had no objections to the use of remote interpreting, so the court will proceed with today’s hearing.

*[or]*

Parties and counsel objected to the use of remote interpreting, but the court has overruled those objections, so the court will proceed with today’s hearing.

*IF NOT PROCEEDING WITH VRI:*

Parties and counsel objected to the use of remote interpreting. The court will not continue with today’s hearing at this time and will reset this matter for a qualified (*insert language*)\_\_\_\_\_ language interpreter to be available in person.

**Suggested Language to Include in the Minutes:**

Interpreter (*name*)\_\_\_\_\_ is present by video remote conferencing and sworn to interpret (*insert language*)\_\_\_\_\_ language for (*name*)\_\_\_\_\_. Sworn oath on file with the Superior Court of California, County of \_\_\_\_\_.

#### **Appendix D: Visual/Auditory Issues, Confidentiality, and Modes of Interpreting When Working Remotely**

- 1.** A clear view of the LEP court user is more important than a view of every speaker; although cameras on all stakeholders may be beneficial, it may not be essential. A speakerphone is not recommended unless it accommodates the other requirements of this appendix, including the ability to be part of a solution to allow for simultaneous interpreting when needed.
- 2.** To ensure the opportunity for confidential attorney-client conferencing, the attorney should have available an individual handset, headset, or in-the-ear communication device to speak with and listen to the interpreter.
- 3.** Interpreting in the courtroom regularly involves both simultaneous and consecutive modes of interpreting. This can be achieved in a variety of ways using existing and emerging technologies. In longer matters, failure to have a technical solution that can accommodate simultaneous interpreting will result in delays of court time and may cause frustration with remote interpreting. Courts should use a technical solution that will allow for simultaneous interpreting. However, there may be proceedings (for example, very short matters) in which consecutive interpreting is adequate to ensure language access.
- 4.** Recognizing that courts may implement very different technical solutions for RI, it is critical that prior to the start of an interpreted event all parties, judicial officers, court staff, and officers of the court (including attorneys and interpreters) know how to allow for confidential conferencing when needed.
- 5.** All participants, including the LEP party and the interpreters, need to check microphone and/or camera clarity before beginning interpretation.
- 6.** Both RI interpreters and courts should have technical support readily available.
- 7.** Clear, concise operating instructions should be posted with the RI equipment.

Note: There are different and other visual considerations, including visual confidentiality, if using VRI with American Sign Language (ASL). Please see [www.courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf](http://www.courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf) for a complete discussion of using VRI with ASL-interpreted events.

**Appendix E: Top 17 Languages Accounting for 98.5% of All Service Days for 2004–2008**

Rank	Language	Service Days (Avg. per year)
1	Spanish	167,744
2	Vietnamese	6,968
3	Korean	3,687
4	Mandarin	3,143
5	Russian	2,753
6	Eastern Armenian	2,493
7	Cantonese	2,117
8	Punjabi	2,083
9	Farsi	1,760
10	Tagalog	1,645
11	Hmong	1,523
12	Khmer	1,191
13	Laotian	861
14	Arabic	794
15	Japanese	655
16	Mien	570
17	Portuguese	328

Note: This table is adapted from Table 1 of the *2010 Language Need and Interpreter Use Study*. American Sign Language is the second-most used language in the state, with 37,335 total service days, but was covered in Appendix Table 2.5 of the 2010 study.

The *2010 Language Need and Interpreter Use Study* can be found at:  
[www.courts.ca.gov/documents/language-interpreterneed-10.pdf](http://www.courts.ca.gov/documents/language-interpreterneed-10.pdf)

## Appendix F: Minimum Proficiency Level for Designation of Staff as Bilingual

As used by the Oral Proficiency Exam, and based on the definitions (reproduced below) provided by the [American Council on the Teaching of Foreign Languages](#), courts must establish a proficiency level of “Intermediate Mid” as the minimum standard for designating staff as bilingual for purposes of California’s Language Access Plan. Courts may wish to select a higher standard depending on the position being filled.

### INTERMEDIATE MID

Speakers at the Intermediate Mid sublevel are able to handle successfully a variety of uncomplicated communicative tasks in straightforward social situations. Conversation is generally limited to those predictable and concrete exchanges necessary for survival in the target culture. These include personal information related to self, family, home, daily activities, interests and personal preferences, as well as physical and social needs, such as food, shopping, travel, and lodging.

Intermediate Mid speakers tend to function reactively, for example, by responding to direct questions or requests for information. However, they are capable of asking a variety of questions when necessary to obtain simple information to satisfy basic needs, such as directions, prices, and services. When called on to perform functions or handle topics at the Advanced level, they provide some information but have difficulty linking ideas, manipulating time and [aspect](#), and using communicative strategies, such as [circumlocution](#).

Intermediate Mid speakers are able to express personal meaning by creating with the language, in part by combining and recombining known elements and conversational input to produce responses typically consisting of sentences and strings of sentences. Their speech may contain pauses, reformulations, and self-corrections as they search for adequate vocabulary and appropriate language forms to express themselves. In spite of the limitations in their vocabulary and/or pronunciation and/or grammar and/or syntax, Intermediate Mid speakers are generally understood by sympathetic [interlocutors](#) accustomed to dealing with non-natives.

Overall, Intermediate Mid speakers are at ease when performing Intermediate-level tasks and do so with significant quantity and quality of Intermediate-level language.

### INTERMEDIATE HIGH

Intermediate High speakers are able to converse with ease and confidence when dealing with the routine tasks and social situations of the Intermediate level. They are able to handle

successfully uncomplicated tasks and social situations requiring an exchange of basic information related to their work, school, recreation, particular interests, and areas of competence.

Intermediate High speakers can handle a substantial number of tasks associated with the Advanced level, but they are unable to sustain performance of all of these tasks all of the time. Intermediate High speakers can narrate and describe in all major time frames using connected discourse of paragraph length, but not all the time. Typically, when Intermediate High speakers attempt to perform Advanced-level tasks, their speech exhibits one or more features of [breakdown](#), such as the failure to carry out fully the narration or [description](#) in the appropriate major time frame, an inability to maintain paragraph-length [discourse](#), or a reduction in breadth and appropriateness of vocabulary.

Intermediate High speakers can generally be understood by native speakers unaccustomed to dealing with non-natives, although interference from another language may be evident (e.g., use of [code-switching](#), false [cognates](#), literal translations), and a pattern of gaps in communication may occur.

## ADVANCED LOW

Speakers at the Advanced Low sublevel are able to handle a variety of communicative tasks. They are able to participate in most informal and some formal conversations on topics related to school, home, and leisure activities. They can also speak about some topics related to employment, current events, and matters of public and community interest. Advanced Low speakers demonstrate the ability to narrate and describe in the major time frames of past, present, and future in paragraph-length discourse with some control of aspect. In these narrations and descriptions, Advanced Low speakers combine and link sentences into connected discourse of paragraph length, although these narrations and descriptions tend to be handled separately rather than interwoven. They can handle appropriately the essential linguistic challenges presented by a complication or an unexpected turn of events. Responses produced by Advanced Low speakers are typically not longer than a single paragraph. The speaker's dominant language may be evident in the use of false cognates, literal translations, or the oral paragraph structure of that language. At times their discourse may be minimal for the level, marked by an irregular flow, and containing noticeable self-correction. More generally, the performance of Advanced Low speakers tends to be uneven. Advanced Low speech is typically marked by a certain grammatical roughness (e.g., inconsistent control of verb endings), but the overall performance of the Advanced-level tasks is sustained, albeit minimally. The vocabulary

of Advanced Low speakers often lacks specificity. Nevertheless, Advanced Low speakers are able to use communicative strategies such as rephrasing and circumlocution. Advanced Low speakers contribute to the conversation with sufficient accuracy, clarity, and precision to convey their intended message without misrepresentation or confusion. Their speech can be understood by native speakers unaccustomed to dealing with non-natives, even though this may require some repetition or restatement. When attempting to perform functions or handle topics associated with the Superior level, the linguistic quality and quantity of their speech will deteriorate significantly.

## Appendix G: Resource List

Commission on the Future of the California Courts, *Justice in the Balance 2020* (1993), available at [www.courts.ca.gov/documents/2020.pdf](http://www.courts.ca.gov/documents/2020.pdf)

National Center for State Courts, *A National Call to Action, Access to Justice for Limited English Proficient Litigants: Creating Solutions to Language Barriers in State Courts* (July 2013), at [www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access/A-National-Call-To-Action.aspx](http://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access/A-National-Call-To-Action.aspx)

Kaiser Permanente, Qualified Bilingual Staff Model & Program at <http://kpqbs.org>, and Healthcare Interpreter Certificate Program at <http://kphci.org/>

Asian Americans Advancing Justice, *A Community of Contrasts: Asian Americans, Native Hawaiians and Pacific Islanders in Los Angeles County* (2013), at [www.advancingjustice-la.org/system/files/CommunityofContrasts\\_LACounty2013.pdf](http://www.advancingjustice-la.org/system/files/CommunityofContrasts_LACounty2013.pdf)

Asian Americans Advancing Justice, *A Community of Contrasts: Asian Americans, Native Hawaiians and Pacific Islanders in California* (2013), [www.advancingjustice-la.org/system/files/Communities\\_of\\_Contrast\\_California\\_2013.pdf](http://www.advancingjustice-la.org/system/files/Communities_of_Contrast_California_2013.pdf)

*California's Indigenous Farmworkers: Final Report of the Indigenous Farmworker Study (IFS) to the California Endowment* (Jan. 2010), at [www.crla.org/sites/all/files/content/uploads/News/NewsUpdate/IFS-ReportJan10.pdf](http://www.crla.org/sites/all/files/content/uploads/News/NewsUpdate/IFS-ReportJan10.pdf)

Neighborhood Legal Services of Los Angeles County, *Justice Silenced: The Harms Suffered by Litigants Denied Access in Los Angeles Superior Courts* (Mar. 2014)

Registry of Interpreters for the Deaf (RID), Standard Practice Papers, at <http://www.rid.org/interpreting/Standard+Practice+Papers/index.cfm>

The California Court's Online Self-Help Center, in English at [www.courts.ca.gov/selfhelp.htm](http://www.courts.ca.gov/selfhelp.htm), and in Spanish (Centro de ayuda en línea) at [www.sucorte.ca.gov](http://www.sucorte.ca.gov)

The JusticeCorps program detailed at [www.courts.ca.gov/justicecorps.htm](http://www.courts.ca.gov/justicecorps.htm)

University of California Hastings College of the Law's study on *Enhancing Language Access Services for LEP Court Users* (2013), at [www.courts.ca.gov/documents/jc-20130426-info3.pdf](http://www.courts.ca.gov/documents/jc-20130426-info3.pdf)

Written public comments and prepared presentations for the three public hearings held in February and March 2014 regarding language access, at [www.courts.ca.gov/24466.htm](http://www.courts.ca.gov/24466.htm)

Demographic data for California's English Learner population, available at <http://data1.cde.ca.gov/dataquest/>

State Seal of Bilingualism, available at [www.cde.ca.gov/sp/el/er/sealofbilingualism.asp](http://www.cde.ca.gov/sp/el/er/sealofbilingualism.asp)



California Court Interpreters Program, also known as the Court Language Access Support Program (CLASP), at [www.courts.ca.gov/programs-interpreters.htm](http://www.courts.ca.gov/programs-interpreters.htm)

“Interpreter Orientation: Working in the California Courts.” This online course is also available to current interpreters for continuing education credit, at [www.courts.ca.gov/21714.htm](http://www.courts.ca.gov/21714.htm)

The California Court Interpreters Program has commissioned various studies and reports related to its testing program, other testing programs, and other related issues, available at [www.courts.ca.gov/2686.htm](http://www.courts.ca.gov/2686.htm)

*Professional Standards and Ethics for Court Interpreters* (May 2013), at [www.courts.ca.gov/documents/CIP-Ethics-Manual.pdf](http://www.courts.ca.gov/documents/CIP-Ethics-Manual.pdf)

*Trial Court Interpreters Program Expenditure Report for Fiscal Year 2012–2013*, at [www.courts.ca.gov/documents/lr\\_TC-Interpreter-Program-FY-2012-2013.pdf](http://www.courts.ca.gov/documents/lr_TC-Interpreter-Program-FY-2012-2013.pdf)

*Recommended Guidelines for Video Remote Interpreting (VRI) for ASL-Interpreted Events* (2012), at [www.courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf](http://www.courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf)

Sabine Braun, “Recommendations for the use of video-mediated interpreting in criminal proceedings,” in *Videoconference and Remote Interpreting in Criminal Proceedings*, eds. Sabine Braun and Judith L. Taylor (Guildford: University of Surrey, 2011), 265–287, at [http://epubs.surrey.ac.uk/303017/2/14\\_Braun\\_recommendations.pdf](http://epubs.surrey.ac.uk/303017/2/14_Braun_recommendations.pdf)

Video Remote Interpreting Position Statement, California Federation of Interpreters (September 2013), available at [http://www.calinterpreters.org/wp-content/uploads/2013/10/CFI\\_VRI\\_Position.pdf](http://www.calinterpreters.org/wp-content/uploads/2013/10/CFI_VRI_Position.pdf)

*Council of Language Access Coordinators, “Remote Interpreting Guide for Courts and Court Staff”* (unpublished draft, June 2014)

Information regarding the Oral Proficiency Exam (OPE) available at <https://www.prometric.com/en-us/clients/California/Pages/CA-COURT-ORAL-PROFICIENCY-EXAM.aspx>

The American Council on the Teaching of Foreign Languages proficiency levels, at [www.actfl.org/publications/guidelines-and-manuals/actfl-proficiency-guidelines-2012/english/speaking](http://www.actfl.org/publications/guidelines-and-manuals/actfl-proficiency-guidelines-2012/english/speaking)

Interagency Language Roundtable’s skill descriptions for interpreter performance, at [www.govtilr.org/Skills/interpretationSLDsapproved.htm](http://www.govtilr.org/Skills/interpretationSLDsapproved.htm)

Consortium for Legal Access in the Courts, Professional Issues Committee, *Guide to Translation of Legal Materials* (National Center for State Courts, Apr. 2011), available at [www.ncsc.org/education-and-careers/state-interpreter-certification/~/\\_media/files/pdf/education%20and%20careers/state%20interpreter%20certification/guide%20to%20translation%20practices%206-14-11.ashx](http://www.ncsc.org/education-and-careers/state-interpreter-certification/~/_media/files/pdf/education%20and%20careers/state%20interpreter%20certification/guide%20to%20translation%20practices%206-14-11.ashx)

Institute for Local Government, *Language Access Laws and Legal Issues: A Local Official's Guide* (2011), at [www.ca-ilg.org/sites/main/files/file-attachments/resources\\_Language\\_Access\\_Guide\\_formatted\\_9-27-11\\_0.pdf](http://www.ca-ilg.org/sites/main/files/file-attachments/resources_Language_Access_Guide_formatted_9-27-11_0.pdf)  
*A Local Official's Guide to Language Access Laws* (2013) 10 Hastings Race & Poverty L.J. 31

American Bar Association (ABA) Language Access website:  
[www.americanbar.org/groups/legal\\_aid\\_indigent\\_defendants/initiatives/language\\_access.html](http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/language_access.html)

American Bar Association, Standing Committee on Legal Aid and Indigent Defendants, *Standards for Language Access in Courts* (Feb. 2012). at  
[www.americanbar.org/content/dam/aba/administrative/legal\\_aid\\_indigent\\_defendants/ls\\_scl\\_aid\\_standards\\_for\\_language\\_access\\_proposal.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_scl_aid_standards_for_language_access_proposal.authcheckdam.pdf)

U.S. Department of Justice, Language Access Plan (Mar. 2012), at  
[www.justice.gov/open/language-access-plan.pdf](http://www.justice.gov/open/language-access-plan.pdf)

U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed.Reg. 41455–41472 (June 18, 2002), at [www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf](http://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf)

Exec. Order No. 13166, Improving Access to Services for Persons With Limited English Proficiency, 65 Fed.Reg. 50121–50122 (Aug. 11, 2000), and U.S. Department of Justice, Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency; Policy Guidance, 65 Fed.Reg. 50123–50125 (Aug. 11, 2000), both at [www.justice.gov/crt/about/cor/Pubs/eolep.pdf](http://www.justice.gov/crt/about/cor/Pubs/eolep.pdf)

Limited English Proficiency, a federal interagency website, at [www.lep.gov/](http://www.lep.gov/)

Memorandum to Federal Agencies from U.S. Attorney General Eric Holder Reaffirming the Mandates of Executive Order 13166 (Feb. 17, 2011), at  
[www.lep.gov/13166/AG\\_021711\\_EO\\_13166\\_Memo\\_to\\_Agencies\\_with\\_Supplement.pdf](http://www.lep.gov/13166/AG_021711_EO_13166_Memo_to_Agencies_with_Supplement.pdf)

LEP.gov State Court-specific Resources: <http://www.lep.gov/resources/resources.html#SC>

## **Reporting and Complaint Processes in Other States**

[http://rid.org/ethics/file\\_complaint/](http://rid.org/ethics/file_complaint/)

Wisconsin: <https://www.wicourts.gov/services/public/interpretercomplaint.htm>

Tennessee: [www.tsc.state.tn.us/sites/default/files/docs/grievance\\_discipline\\_process\\_april\\_2012.pdf](http://www.tsc.state.tn.us/sites/default/files/docs/grievance_discipline_process_april_2012.pdf)

Ohio: <http://www.supremecourt.ohio.gov/JCS/interpreterSvcs/default.asp>

North Carolina: [www.nccourts.org/ Surveys/LA/languageaccess.htm](http://www.nccourts.org/Surveys/LA/languageaccess.htm)

Georgia: [http://w2.georgiacourts.org/coj/files/Rule%20on%20Interpreters%20-%20FINAL\\_JULY.pdf](http://w2.georgiacourts.org/coj/files/Rule%20on%20Interpreters%20-%20FINAL_JULY.pdf)

Nebraska: <http://supremecourt.ne.gov/sites/supremecourt.ne.gov/files/reports/courts/language-access-plan.pdf>  
(see Appendix 20)

Arkansas: <https://courts.arkansas.gov/sites/default/files/tree/Arkansas%20LEP%20Plan.pdf> (pp. 15–16)

Alaska: [www.law.state.ak.us/pdf/criminal/LanguageAccessPlan.pdf](http://www.law.state.ak.us/pdf/criminal/LanguageAccessPlan.pdf) (pp. 19–20)

New York: <http://labor.ny.gov/formsdocs/dipa/la1.pdf>

### **Training Tools From Other States**

Ohio: [www.ohiochannel.org/MediaLibrary/Media.aspx?fileId=140618](http://www.ohiochannel.org/MediaLibrary/Media.aspx?fileId=140618)

Minnesota: [www.mncourts.gov/?page=4347](http://www.mncourts.gov/?page=4347)

**Appendix H: Evid. Code, § 756 and Gov. Code, § 68092.1**

Section 756 is added to the Evidence Code, to read:

**756.**

(a) To the extent required by other state or federal laws, the Judicial Council shall reimburse courts for court interpreter services provided in civil actions and proceedings to any party who is present in court and who does not proficiently speak or understand the English language for the purpose of interpreting the proceedings in a language the party understands, and assisting communications between the party, his or her attorney, and the court.

(b) If sufficient funds are not appropriated to provide an interpreter to every party that meets the standard of eligibility, court interpreter services in civil cases reimbursed by the Judicial Council, pursuant to subdivision (a), shall be prioritized by case type by each court in the following order:

(1) Actions and proceedings under Division 10 (commencing with Section 6200) of the Family Code, actions or proceedings under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code) in which a protective order has been granted or is being sought pursuant to Section 6221 of the Family Code, and actions and proceedings for dissolution or nullity of marriage or legal separation of the parties in which a protective order has been granted or is being sought pursuant to Section 6221 of the Family Code; actions and proceedings under subdivision (w) of Section 527.6 of the Code of Civil Procedure; and actions and proceedings for physical abuse or neglect under the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code).

(2) Actions and proceedings relating to unlawful detainer.

(3) Actions and proceedings to terminate parental rights.

(4) Actions and proceedings relating to conservatorship or guardianship, including the appointment or termination of a probate guardian or conservator.

(5) Actions and proceedings by a parent to obtain sole legal or physical custody of a child or rights to visitation.

(6) All other actions and proceedings under Section 527.6 of the Code of Civil Procedure or the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code).

(7) All other actions and proceedings related to family law.

(8) All other civil actions or proceedings.

- (c) (1) If funds are not available to provide an interpreter to every party that meets the standard of eligibility, preference shall be given for parties proceeding in forma pauperis pursuant to Section 68631 of the Government Code in any civil action or proceeding described in paragraph (3), (4), (5), (6), (7), or (8) of subdivision (b).
- (2) Courts may provide an interpreter to a party outside the priority order listed in subdivision (b) when a qualified interpreter is present and available at the court location and no higher priority action that meets the standard of eligibility described in subdivision (a) is taking place at that location during the period of time for which the interpreter has already been compensated.
- (d) A party shall not be charged a fee for the provision of a court interpreter.
- (e) In seeking reimbursement for court interpreter services, the court shall identify to the Judicial Council the case types for which the interpretation to be reimbursed was provided. Courts shall regularly certify that in providing the interpreter services, they have complied with the priorities and preferences set forth in subdivisions (b) and (c), which shall be subject to review by the Judicial Council.
- (f) This section shall not be construed to alter, limit, or negate any right to an interpreter in a civil action or proceeding otherwise provided by state or federal law, or the right to an interpreter in criminal, traffic, or other infraction, juvenile, or mental competency actions or proceedings.
- (g) This section shall not result in a reduction in staffing or compromise the quality of interpreting services in criminal, juvenile, or other types of matters in which interpreters are provided.

Section 68092.1 is added to the Government Code, to read:

**68092.1.**

- (a) The Legislature finds and declares that it is imperative that courts provide interpreters to all parties who require one, and that both the legislative and judicial branches of government continue in their joint commitment to carry out this shared goal.
- (b) Notwithstanding Section 26806 or 68092, or any other law, a court may provide an interpreter in any civil action or proceeding at no cost to the parties, regardless of the income of the parties. However, until sufficient funds are appropriated to provide an interpreter to every party who needs one, interpreters shall initially be provided in accordance with the priorities set forth in Section 756 of the Evidence Code.

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**Draft Strategic Plan for Language Access in the California Courts**

All comments are verbatim unless indicated by an asterisk (\*).

This is a complex comment chart. All commentators who submitted formal public comments regarding the draft *Strategic Plan for Language Access in the California Courts* are first identified and listed in alphabetical order, and then commentator's specific comments regarding plan provisions are broken up and listed in the order that the provisions appear in the draft *Strategic Plan for Language Access* (e.g., Goal I, Goal II, etc.).

<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	41 Legal Services and Community Organizations, submitted by Joann H. Lee on behalf of several groups	AM	See comments on specific provisions below.	
2.	ACLU of California and Other Community Organizations, submitted by Julia Harumi Mass on behalf of several groups	AM	See comments on specific provisions below.	
3.	Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer	AM	See comments on specific provisions below. The commentator also <u>disagrees</u> with Phase I Recommendation No. 60. ("The pursuit of grant funding does not seem like a realistic strategy for systemic and structural expanded language access. Grant funds are limited-term, and are often tied to specific deliverables/objectives, which may or may not align with the statewide strategies outline in the Plan. Reliance on grant funds can lead organizations down a path of chasing funding, rather than implementing policy consistently. Further, any significant reliance on this funding source will result in disparate service levels from court to court, which in and of itself will raise access and equity concerns.")	The JWG disagrees but recognizes that grant funding is not the exclusive solution to funding and resources needs, nor does it suggest grant funding as the primary strategy for expanding language access. It is the intent of Recommendation No. 59 (former No. 60) that trial courts consider a variety of funding opportunities, including grants, to support discrete projects that advance language access at the local level. Other recommendations in the plan, such as Recommendation No. 56 (former No. 57), address the pursuit of funding on a broader systemic level to achieve comprehensive language access.
4.	Sue Alexander, Commissioner, Superior Court of Alameda County	AM	See comments on specific provisions below.	
5.	Diana Barahona, Court Interpreter, California Federation of Interpreters (Comment 1 of 2)	N	See comments on specific provisions below.	

**Draft Strategic Plan for Language Access in the California Courts**

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<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
6.	Diana Barahona, Court Interpreter, California Federation of Interpreters (Comment 2 of 2)	N	See comments on specific provisions below.	
7.	Kristen Boney, Senior Staff Attorney, Legal Assistance for Seniors	A	I support changes that will increase access to justice for those who have difficulty reading or understanding English. I am a legal services attorney in Alameda County, although I am writing on my own behalf, not my agency's. I represent seniors petitioning for guardianship of children in their care. For years now, our probate court has not provided interpreters for guardianship (or any) cases. My agency and my clients cannot afford to hire interpreters, so litigants must bring family members, none of whom are trained, to act as interpreters. This impedes their access to justice. Many other litigants are self represented and have a much more difficult time than those with attorneys.	The Joint Working Group (JWG) appreciates the comment. No response required.
8.	Kenneth Brooks, Attorney	NI	Thank you for addressing this topic. I read in the [*Daily Journal*] article that actual changes are scheduled for 2015. This may be too soon given the legislative part asking for needs research. I recommend we do the complete research first.	The JWG recognizes the difficulty entailed in the prompt implementation of many of the recommendations in the plan. For that reason, the plan establishes 3 phases within which different recommendations are to begin, taking into account research needs, further analysis and investigation that will need to be conducted, and the need for resources. The JWG appreciates the suggestion to conduct ongoing needs research. Recommendation No. 6 in the <i>Strategic Plan for Language Access in the California Courts</i> (“Language Access Plan”) notes that improved data collection is critical in supporting funding requests as the courts expand language access

**Draft Strategic Plan for Language Access in the California Courts**

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<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
				services into civil cases.
9.	California Association of Family Court Services Directors, by Robert J. Bayer, Vice-President, and Manager of Family Court Services, Ventura Superior Court	AM	See comments on specific provisions below.	
10.	California Commission on Access to Justice, Hon. Ronald B. Robie, Chair	AM	See comments on specific provisions below.	
11.	California Federation of Interpreters, by Ariel Torrone, President	AM	See comments on specific provisions below.	
12.	California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair	AM	See comments on specific provisions below.	
13.	California Rural Legal Assistance, Inc., by Maureen Keffer, Indigenous Program Director	AM	See comments on specific provisions below.	
14.	California State Bar's Standing Committee on the Delivery of Legal Services, by Maria C. Livingston, Chair	AM	See comments on specific provisions below.	
15.	Superior Court of Fresno County, Sheran L. Morton, Court Executive Officer	AM	See comments on specific provisions below.	
16.	Indigenous Language Interpreters and Community Organizations, submitted by Maureen Keffer on behalf of several groups	AM	See comments on specific provisions below.	
17.	Legal Aid Association of California, by Salena Copeland, Executive Director	AM	See comments on specific provisions below.	
18.	Superior Court of Los Angeles County (no name provided)	AM	See comments on specific provisions below.	



**Draft Strategic Plan for Language Access in the California Courts**

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<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
19.	Superior Court of Placer County, Jake Chatters, Court Executive Officer	AM	See comments on specific provisions below.	
20.	Superior Court of Ventura County, Michael Planet, Court Executive Officer	A	The primary goal of this proposed Strategic Plan to "incorporate language access as part of the core court services" is consistent with this court's mission, and one we support. The draft is comprehensive, ambitious, and cognizant of the operational and budget challenges currently facing the trial courts.	No response required.
21.	Superior Court of Orange County, Alan Carlson, Court Executive Officer	AM	See comments on specific provisions below.	

**Draft Strategic Plan for Language Access in the California Courts**

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<b>Draft Strategic Plan for Language Access in the California Courts: General Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Diana Barahona, Court Interpreter, California Federation of Interpreters (Position = N)	<p>Chief Justice Tani Cantil-Sakauye was correct when she said the courts must provide equal access to justice for all Californians: “Access to the courts for all LEP individuals is critical not just to guarantee access to justice in our state, but to ensure the legitimacy of our system of justice and the trust and confidence of Californians in our court system.”</p> <p>This is not just a matter of fairness, it is the law, as the U.S. Justice Department told the courts in its August 16, 2010 letter. Not providing interpreters or charging for interpreters is a violation of people’s civil rights, and it has been going on for decades. The courts need to be reminded of this.</p> <p>Therefore I propose that Title VI of the Civil Rights Act, National Origin Discrimination Against Persons With Limited English Proficiency be placed on page one of the Access Plan, not in an appendix on the next-to-the-last page.</p>	The purpose and intent of the Language Access Plan is to ensure compliance with Title VI of the Civil Rights Act of 1964, and other applicable federal and state laws and their implementing regulations with respect to LEP persons. The JWG has added language to this effect in the beginning of the plan.
California Commission on Access to Justice, Hon. Ronald B. Robie, Chair (Position = AM)	<p>The California Commission on Access to Justice is grateful for the opportunity to comment on the <i>Strategic Plan for Language Access in the Courts</i>. The Commission has long been interested in language access issues, and in 2005 published the report <a href="#">Language Barriers to Justice in California</a> to illuminate language access issues in California, as well as to make recommendations for improvement. We are delighted that the <i>Strategic Plan</i> addresses the issues that the Commission was concerned about, and also wish to support recommendations regarding some basic implementation issues:</p> <ul style="list-style-type: none"> <li>• <b>Language access is neither optional nor supplemental.</b> Language access is critical to access to justice, and should be a core service of the courts. We concur with the Chief Justice in deeming language access one of the highest priorities for the courts, and</li> </ul>	The JWG appreciates and agrees with the California Commission on Access to Justice’s thoughtful comments and suggestions regarding successful implementation of the recommendations contained in the Language Access Plan.

**Draft Strategic Plan for Language Access in the California Courts**

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<b>Draft Strategic Plan for Language Access in the California Courts: General Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>thank the Joint Working Group for creating a plan in which the early stages of implementation will begin immediately.</p> <p>In these tough economic times for California courts, language access might be regarded by some as an unaffordable luxury, but the Commission believes that it is as important and necessary, as was the implementation of the Americans with Disabilities Act (ADA). In the early days of ADA implementation, there were objections to it—based on cost—that rarely are heard now because people have come to understand that access is a core element of fairness.</p>	
<p>Superior Court of Los Angeles County (no name provided) (Position = AM)</p>	<p>Despite the fact that the California trial courts have suffered some of the worst funding cuts of any court system in the nation throughout the past six years, the Los Angeles Superior Court (LASC) has preserved access to justice in all case types across a populous and geographically spread jurisdiction. Throughout the budget crisis, the Court’s commitment to language access did not waver. Not only did the Court continue to maintain pre-crisis levels of interpreter support, it also continued to expand language services (for instance, through its JusticeCorps program).</p> <p>As LASC emerges from budget disaster, the proposed <i>Strategic Plan for Language Access in the California Courts</i> (Plan) will provide a crucial strategic element in the Court’s rebuilding plan. As a key participant in its formulation, the Court wholeheartedly supports this strategy for moving forward on this important issue. Many of the Plan’s goals are already parts of the Court’s operating strategies. Others are currently being pursued as LASC takes advantage of recent policy changes allowing it to expand interpreter coverage. Yet others remain</p>	<p>The JWG acknowledges and appreciates the efforts of the Los Angeles Superior Court in its commitment to language access in the face of budget and other challenges unique to Los Angeles County. The JWG further appreciates the LASC’s willingness to support increased funding requests from the Legislature.</p> <p>The JWG understands that the plan timelines are aggressive, but respectfully disagrees that the timelines should be tempered. The JWG is aware of the significant changes that will be needed to make the plan a reality and the challenges to meet the plan’s timeline, but it is very appreciative of the LASC’s expressed commitment to working together to achieve the goal of meaningful and comprehensive statewide language access.</p>

**Draft Strategic Plan for Language Access in the California Courts**

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<b>Draft Strategic Plan for Language Access in the California Courts: General Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>aspirational, as the Plan recognizes, as LASC struggles (as do all California trial courts) to fulfill all of its constitutional and statutory mandates in a grossly under-resourced situation.</p> <p>The size, scale, scope and diversity of the language needs of those who use the Los Angeles Superior Court are unmatched in any other trial court. Regardless, LASC has already begun to expand courtroom interpreters in domestic violence cases, unlawful detainers, cases involving termination of parental rights, and probate conservatorships and guardianships. Further progress in this direction will of necessity be slowed by significant challenges in several areas. In each area LASC is aggressively working on solutions, but in none of these areas are solutions solely within the Court’s power.</p> <p>The first challenge is that under-funded courts face competing obligations to restore access to justice in a number of areas. Insofar as availability of interpreter funding will continue to be a major challenge, courts will face a balancing act as to which obligations they can fulfill. Similarly, enhancement of currently provided translation, signage and video services will require the balancing of competing needs in the Court’s provision of access to justice across the board. LASC will support legislative efforts to provide permanent funding for needed services.</p> <p>The Court will also continue to explore more efficient ways of delivering interpreter services. To get the most out of scarce resources, training for LASC’s “front-line” staff, from the doorway of the courthouse, to the well of the courtroom, is another important prerequisite that is underway. As the Court’s current business process improvement efforts continue, they will improve its ability to deploy the language resources</p>	

**Draft Strategic Plan for Language Access in the California Courts**

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<b>Draft Strategic Plan for Language Access in the California Courts: General Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>already possessed by court employees.</p> <p>Second, even upon solving these funding problems, the courts will still face an absolute shortage of certified interpreters in many languages in many areas throughout the state. LASC is finding creative ways to recruit interpreters – for instance, providing opportunities for people who are studying to become an interpreter to interpret for Teen Court participants, giving the interpreter students a positive experience of court interpretation.</p> <p>Third, automated solutions are required for many of strategies in the Plan and building those new technologies require both time and money. For instance, knowing the needs of court users, and capturing that knowledge for planning purposes, are important parts of the plan. Automated solutions are absolute necessities and are being integrated into the Court’s current efforts to automate its case management systems and other business processes.</p> <p>The aggressive timing of Phase II and III initiatives must be tempered by the realities that large-scale changes in courts’ core technologies, a significant shift in legislative funding priorities, and fundamental changes in people’s views of court interpretation as a career, will all take time and are beyond the control of any one court. LASC is, nonetheless, pursuing strategies such as those outlined in the Plan to overcome these challenges. [*Note: See comment below regarding former Recommendation No. 76 (Now No. 74)*]</p> <p>Overall, the Plan captures well the challenges of this crucial facet of providing access to justice in Los Angeles and across California. We look forward to working with the council</p>	

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<b>Draft Strategic Plan for Language Access in the California Courts: General Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	and other trial courts in continuing to make progress toward these goals.	
California Federation of Interpreters, by Ariel Torrone, President (Position = AM)	[*Note: CFI submitted substantial narrative comments regarding use of video remote interpreting – their recommendations are excerpted below in Goal II section*]	
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	[*Note: CFI submitted substantial narrative comments regarding all aspects of the draft plan – their comments regarding specific LAP recommendations are excerpted below*]	
41 Legal Services and Community Organizations (Position = AM)	[*Note: The 41 Legal Services and Community Organizations submitted substantial narrative comments regarding all aspects of the draft plan – their comments regarding specific LAP recommendations are excerpted below*]	
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p><b>GENERAL COMMENTS:</b></p> <p><b>USE OF THE TERM “WILL” IN RECOMMENDATIONS:</b> Several of the recommendations use the term ‘will’ in describing what the branch or courts are to do. Although these are recommendations to the Judicial Council and not (yet) rules of court, there should be a discussion before recommendations are made about the use of the term “will.” Without this, there will be a reaction to the use of the term even before getting to the substance of the idea. The discussion would be most constructive if it included the theory of why “will” was used in some instances, and “should” in others. For example, this would also help clarify when the Joint Working Group felt an activity was required by law, supporting use of the term “will,” as opposed to a policy preference, suggesting the use of the term “should.”</p> <p><b>USE OF THE TERM CIVIL TO REFER TO CASE TYPES:</b> Since the impetus for the report is in large part the</p>	<p><b>Use of “will”:</b></p> <p>The JWG disagrees with the comment that an explanatory paragraph is necessary. The JWG was very deliberate in its use of the terms “will,” “must” and “should” throughout the recommendations of the plan, and has made further revisions to clarify the wording of individual recommendations. Where the recommendations addressed policy statements regarding language access, or addressed activities that are required by law or are under the power and control of the Judicial Council, the terms “must” and “will” were generally used. Where the JWG made recommendations for local courts to take certain actions to expand language access at the local level, the term “should” was utilized.</p> <p><b>Use of “civil”:</b></p> <p>The JWG agrees. The plan has been modified to include</p>

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<b>Draft Strategic Plan for Language Access in the California Courts: General Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>expansion of the mandatory use of interpreters beyond criminal and juvenile cases, there needs to be an early discussion of the term “civil” when describing classes of cases. To the average reader, “civil” probably means personal injury cases like auto accidents, contract cases, etc. Not everyone is aware of the legal definitions of “civil” to essentially be everything except criminal cases (see CCP sections 22 et seq.). This could be addressed with a short paragraph in the beginning (see first paragraph on page 10, or at footnote 19 on page 29) indicating that the use of the term “civil” is meant to include all cases other than criminal and juvenile, including family law, probate, mental health, etc., so that the reader starts out knowing “civil” includes a wide range of cases not normally associated with “civil.”</p> <p><b>UNDUE DEFFERENCE TO REGIONAL AGREEMENTS:</b> MOU’s between courts in a region and the representatives of interpreters are negotiated agreements. They are not statutes or rules of court. If provisions in an MOU are impediments to providing language services, the recommendation should say the agreements should be renegotiated, not treated as inviolate. This is a language access plan for litigants and people coming in contact with the courts, not a full employment act for court interpreters. See recommendations 28 on page 49, 29 on page 50, 32 on page 50, 33 on pages 50-51, footnote 28 on page 48, and recommendation 66 on page 80.</p>	<p>a section clarifying concepts used throughout the plan, including the term “civil.”</p> <p><b>“Undue deference to regional agreements”:</b> The JWG agrees. The Language Access Plan has been modified to include language that the intent of the Plan is that all of its recommendations be applied consistently across all 58 trial courts. To the extent that provisions in local bargaining agreements are in conflict with any of the recommendations contained in the Plan, it is recommended that local agreements be modified or renegotiated as soon as practicable to be consistent with Plan recommendations and to ensure that, at a general level, courts provide language access services for LEP persons that are consistent statewide. However, the drafters of the Plan recognized that differences in local demographics, court operations and individual memoranda of understanding with court employees may constrain individual courts’ abilities to fully implement certain of the Plan’s recommendations.</p>

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<b>Goal I: Improve Early Identification of and Data Collection on Language Needs.</b>		
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California State Bar’s Standing Committee on the Delivery of Legal Services (Position = AM)	In addition to the seven recommendations identified in support of this goal, SCDLS urges the Judicial Council to create an optional form to collect information from litigants at the time of their respective initial filings or first appearances regarding whether there is a need for an interpreter and in what language. The form should be translated in every language spoken by 5 percent or more of any county’s population within California. The clerk can then input the need for language services in the case system, thereby identifying the need for such services while promoting a more coordinated system for the provision of interpreters. The optional form would give the courts one method of early identification of language needs thereby facilitating the coordination of interpreters.	The JWG appreciates the recommendation from SCDLS regarding the creation of an optional form to collect information from litigants as early in the process as possible. Other commentators have suggested similar ideas. The JWG believes the specific manner in which data will be collected early on in the court process (and throughout the court process), or by which LEP court users may identify the need for language services, more properly belongs in the implementation phase of the plan, and will forward SCDLS’s recommendation to the Implementation Task Force for further analysis and recommendation.
California Rural Legal Assistance, Inc. (Position = AM)	CRLA supports the Plan’s goal of collecting improved data on the language needs of LEP Californians and identifying LEP court users’ needs as early as possible in their interactions with the courts. However, the Plan should place greater emphasis on improved data collection earlier in the Plan’s implementation, especially with regard to data on underserved languages [FN: We use the term “underserved languages” to refer to any languages for which the demand for language services exceeds the supply of available, qualified language service providers.]	The JWG agrees that improved data collection is very important. Recommendation 6 regarding the expansion and improvement of data collection begins in Phase 1 of implementation. The JWG proposes no change to the plan in response to this comment.
41 Legal Services and Community Organizations (Position = AM)	The recommendations concerning Goal I are too broad, do not give sufficient direction, and do not adequately address the guidelines governing the courts’ obligations under Title VI of the Civil Rights Act of 1964.  Pursuant to the federal Department of Justice guidelines, courts must assess the number or proportion of LEP persons served or encountered in their eligible services population. This straightforward process is key in determining what resources are required to address the language needs of a court’s eligible population for the purpose of compliance	The JWG disagrees. The recommendations in Goal 1 establish a set of policy guidelines for the Implementation Task Force to use in its establishment of more concrete actions to improve data collection.  The plan also states that notice and other key resources for LEP court users should be provided in English and five other languages based on local community needs assessed through due diligent communication with justice partners including legal services providers,



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	<p>with federal law. If executed properly, every county should be able to identify most, if not all, of the language groups in their eligible service area, including the top five languages, in a relatively short period of time.</p> <p>The current plan points to other data sources and strongly suggests, but does not direct, that the courts go beyond the U.S. Census and American Community Survey (ACS) when determining the possible language groups to be served.</p>	<p>community based-organizations, and other entities working with LEP populations.</p> <p>Recommendation 7 addresses the importance of collecting data beyond the US census information, and suggests additional sources of data. The JWG does not at this point believe this recommendation should be a mandate to courts.</p>
Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)	[*Recommendation No. 1*]Many courts are in the process of updating their case management systems. Be sure that any case management system adopted by the courts has the ability to capture and maintain the language need information.	The JWG recognizes that courts have different case management systems, if at all, and that the development of case management systems must integrate language access needs. The JWG has therefore amended Recommendations Nos. 1 and 2 accordingly.
Indigenous Language Interpreters and Community Organizations (Position = AM)	<p><b>Recommendation 1.</b> We agree that the courts should identify the language needs of each person at the earliest possible point of contact with the court system. However, the Plan does not consider how court staff will determine what each person’s language needs are. Indigenous languages have many different regional variations, and if court staff do not ask the right questions, an indigenous language speaker may be provided an interpreter who speaks a variation that he or she does not understand. The Plan should specify how court staff will identify an indigenous language speaker’s language needs, specifically by asking the court user what his or her community of origin is, since this is the best way to ensure the correct interpreter is provided.</p> <p>It is also important that the Plan state who will be responsible for collecting this information. In addition to the interpreter coordinator or other court staff, Spanish language interpreters can be an important source of this information, because they</p>	The JWG believes the specific manner in which language needs information will be identified and collected early on in the court process (and throughout the court process) or by which LEP court users themselves may identify their need for language services, more properly belongs in the implementation phase of the plan, and will forward the specific comments provided to the Implementation Task Force for further analysis and recommendation. The same applies for who will have the responsibility for collecting the information. The training needs associated with identification of language needs are addressed under Goal 6, “Provide Judicial Branch Training on Language Access Policies and Procedures.”

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	<p>often encounter indigenous language speakers who have been mistakenly identified as Spanish speakers. Spanish interpreters should be trained in how to identify indigenous language needs and report this information to court staff immediately.</p> <p>On the issue of data collection, it is also important that the courts gather data on the number of interpreters available to interpret in indigenous languages, including the specific regional variations that each interpreter speaks. The courts should be aware of what language needs exist in the community, but they should also understand what interpreter resources exist in indigenous languages to determine what languages should be prioritized for developing additional trained interpreters. Collecting this information in one centralized database for the entire state will also help court staff to locate available interpreters to meet the needs of indigenous language speakers.</p>	
<p>Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 1*] Identification of language access needs <i>at the earliest possible point of contact</i> would most practically be effectuated by modifying virtually all Judicial Council forms, including the fee waiver request form, to include a self-indication of language access needs. Absent an approach that is based in large part on modification of mandatory court forms, there is no way to practically and consistently ensure identification of such needs. Inclusion of this aspect of the recommendation in Phase 1 should be dependent on the timing of form modification.</p> <p>Documentation of needs in the CMS assumes that a court has a CMS for all case types. Most courts, including the Alameda Superior Court, do not. While CMS' will be more widespread in the future as court spend-down processes are realized, this recommendation should not be included in</p>	<p>Recommendation No. 1 has been modified to reflect the flexibility needed for courts with limited, if any, case management systems. As currently written, the recommendation allows for implementation in Phase 1 regardless of sophistication of case management systems.</p> <p>The JWG believes the specific manner in which language needs and data will be collected early on in the court process (and throughout the court process) or by which LEP court users may identify the need for language services, more properly belongs in the implementation phase of the plan, and will forward specific suggestions to the Implementation Task Force for further analysis and recommendation.</p>

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	Phase 1.	
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	<p>Recommendation 1. Language access needs identification. Language access needs must be clearly and consistently documented in the case management system and in court records.</p> <p><i>The courts currently have very poor systems for tracking language access needs. It is imperative that courts prioritize including language access needs into the electronic case management systems. CFI has been talking to courts about this for years, because it would greatly assist interpreters in managing their time to know which cases on calendar need interpreters. For years courts have said that they have other priorities in terms of programming changes to their existing systems. Any new case management systems must include electronic recording and tracking of language needs. Such a system should include a way to note, when known, whether witnesses in a case require an interpreter, and the language.</i></p> <p><i>Current processes (including interpreter daily activity logs, interpreter request protocols and the CIDCS reporting system) are inefficient and unreliable. In most courts the computerized calendaring systems cannot track and search for interpreter needs. This makes it difficult if not impossible for interpreter coordinators to efficiently manage interpreter resources. The goal should be for an interpreter coordinator to be able to electronically search for and produce a list of all pre-scheduled cases in need of an interpreter by date or other timeframes.</i></p>	Recommendation No. 1 has been revised to more clearly address the need for early tracking to be electronic and in a case management system were feasible (and where not feasible, in any existing record system available), with provisions for inclusion in future system development where mechanisms are not yet in place.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 1*] While the concept of early identification of language needs seems obvious, it needs to be balanced against the cost effective delivery of language assistance. For example, OC allows parties to self-identify	The JWG disagrees and recommends identification of LEP court users at the earliest possible stage, wherever and whenever possible. The JWG believes the specific manner in which language needs will be collected early

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	<p>language needs on traffic and collection matters through a Reserve A Court Date (RACD) online system before their first appearance. While this gives the court advance notice of language needs, there are two problematic aspects: no-show rate and actual English speaking ability. Some parties select a foreign language even though they speak English as well and may not need an interpreter. A high no-show rate means interpreters are scheduled for appearances, but are not needed, wasting a scarce resource.</p> <p>Absent a pre-appearance self-identification of language need, the first appearance is when need becomes known and should be captured. Once identified, the CMS can document the use and need of interpreters as long as the proper action codes are used and quality assurance in place to ensure the correct language is encoded and changes are made as needed.</p>	<p>on in the court process (and throughout the court process), or by which LEP court users may identify the need for language services, more properly belongs in the implementation phase of the plan, and will forward specific suggestions to the Implementation Task Force for further analysis and recommendation.</p>
<p>Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 2*] This recommendation will be difficult to implement, particularly absent a definition of persons with a significant interest in a case. Further, absent a CMS, there is no meaningful way to track granting or denial of requests – other than hand notation in the case file.</p>	<p>Recommendation No. 2 has been revised to reflect the flexibility needed for courts with limited, if any, case management systems.</p> <p>The definition of “persons with a significant interest” has likewise been modified to provide clearer guidelines to courts, including a provision that the court may exercise its discretion when making a determination of who is a “person with a significant interest.”</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 2*] Historically, this has only been done for defendants and witnesses on traffic, misdemeanor, and felony cases. “Other persons with a significant interest in the case” is an overly broad term, and needs to be more clearly defined. For example, is a member of the media reporting a person with a significant interest in the case? What about a</p>	<p>The definition of “persons with a significant interest” has been modified to provide clearer guidelines to courts, including a provision that the court may exercise its discretion when making a determination of who is a “person with a significant interest.”</p>

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	family member? Courts will have to develop/modify procedures for tracking requests that were denied and / or use of privately retained interpreters in other case types, and must modify procedures and case management systems as needed to capture the additional data.	In terms of developing or modifying procedures for tracking denials and/or use of private interpreters, the JWG understands that case management systems may have to be updated or modified to obtain necessary data and information for proper tracking of language access needs and provision of services.
Indigenous Language Interpreters and Community Organizations (Position = AM)	<p><b>Recommendation 3.</b> “Justice partners” should include indigenous community organizations, since they are most likely to have direct connections with indigenous language speakers whom government and other community agencies often fail to reach. In addition, there should be clear protocols for how justice partners can communicate an individual’s language needs to the court.</p> <p>If an individual is detained, he or she should be given the opportunity to self-identify as in need of an interpreter, and this need should be communicated to the court.</p>	<p>The definition of “justice partners” has been made broader to encompass any relevant organizations or agencies.</p> <p>With regard to clear protocols, the JWG believes the specific manner in which language needs will be identified early on in the court process (and throughout the court process) or by which LEP court users may identify the need for language services, more properly belongs in the implementation phase of the plan, and will forward specific suggestions to the Implementation Task Force for further analysis and recommendation.</p> <p>With regard to an individual’s opportunity to identify their language needs to a justice partner, the JWG believes they do not have the ability through this plan to impose upon justice partners mechanisms related to their internal operations.</p>
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>[*Recommendation No. 3*] In many cases, the first contact with an individual needing language assistance is a justice partner, not the court. The recommendation should not be stated as if it is only the court’s responsibility to do this. It should state the courts should work WITH justice partners to develop protocols.</p>	<p>The JWG agrees that it is often the case that LEP court users’ first contact is with a justice partner, and it is the intent of this recommendation to encourage courts to establish protocols with justice partners. With regard to an individual’s opportunity to identify their language needs to a justice partner, the JWG believes they do not</p>

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	Some concerns regarding this recommendation include: - Incorrect language identification by justice partners (for example, Chinese instead of Mandarin or Cantonese); - Defendant cited and released, but a complaint is filed and the appearance date is changed; and - High volume of failure to appear cases, especially in misdemeanors.	have the ability through this plan to impose upon justice partners mechanisms related to their internal operations.
Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer (Position = AM)	[*Recommendation No. 4*] As noted in the comment to #1 above, achieving this goal best involves a statewide approach.	The JWG agrees.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 4. Mechanisms for LEP court users to self-identify. Add to recommendation: <i>Court staff will be trained to include a notice that free language access services are available in general announcements given to court users at the beginning of calendars.</i>	The JWG believes the specific manner in which LEP court users may identify the need for language services more properly belongs in the implementation phase of the plan, and will forward specific suggestions to the Implementation Task Force for further analysis and recommendation.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 4*] As interpreter use is expanded into other case types, information sheets, forms, web-sites, procedures, etc. will need to be modified to contain information notifying parties how to request an interpreter. Ideally, once a request is identified and entered into a CMS, the interpreter office would receive a report or notification so that an interpreter could be scheduled / ordered in advance. Early self-identification of language needs represents a departure from past practice of waiting for the court user to appear before a Judicial Officer before ordering an interpreter, thus shifting the authority down to line staff to identify the need for an interpreter based on early identification by the court user. This is a culture shift that will require wide stakeholder acceptance. Also, inevitably there will be some no-shows, and individuals	The JWG believes that the court has an affirmative duty to identify language needs as early as possible.  The JWG believes the specific manner by which LEP court users may identify the need for, or request the provision of, language services, more properly belongs in the implementation phase of the plan, and will forward specific suggestions to the Implementation Task Force for further analysis and recommendation.

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	<p>who decide they understand and speak English well enough that an interpreter is not needed resulting in some unnecessary added expenses. Early identification raises the issue of how much responsibility the court has to anticipate problems and overtly act to avoid. The court does not currently seek to identify litigants needing counsel, even though the need for counsel may be as critical as the need for an interpreter. It is not clear where the balance is, which suggests more thought needs to be put into when and where it is appropriate for the court to anticipate and intervene.</p>	
<p>Indigenous Language Interpreters and Community Organizations (Position = AM)</p>	<p><b>Recommendations 4 and 5.</b> The interpreter coordinator or language access coordinator for each court should be in charge of ensuring that LEP persons are given the opportunity to self-identify as needing an interpreter. However, “I Speak” cards and written notices will not be useful to many indigenous language speakers, since the majority do not know how to read or write in their native language. The courts should partner with indigenous community organizations in conducting outreach to ensure that indigenous language speakers understand their right to an interpreter before they ever arrive at the courthouse and know how to self-identify as in need of language assistance. Audio and video materials in indigenous languages introducing individuals to the courts should also include information on the right to a language assistance and how one can request an interpreter.</p>	<p>The JWG believes the specific manner by which LEP court users may identify the need for language services more properly belongs in the implementation phase of the plan, and will forward specific suggestions to the Implementation Task Force for further analysis and recommendation.</p>
<p>Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 5*] Clarity regarding how, at a minimum, courts are to notify users about available language access services throughout the duration of the case, is needed. Without specificity and some parameters, this recommendation cannot be meaningfully implemented.</p>	<p>Recommendation No. 5 has been revised. The JWG believes further detail on how to notify LEP court users of language access services more properly belongs in the implementation phase of the plan, and will forward specific suggestions to the Implementation Task Force for further analysis and recommendation.</p>

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Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 5*] As interpreter use is expanded into other case types, information sheets, forms, web-sites, procedures, etc., will need to be developed or modified to contain information notifying parties how to request an interpreter. Since all courts will need this, it seems appropriate for the development of these materials to occur at the state level.	Recommendation No. 37 has been added to the plan as a new recommendation: “37. The Judicial Council staff will work with courts to provide samples and templates of multilingual information for court users that are applicable on a statewide basis and adaptable for local use.”
Indigenous Language Interpreters and Community Organizations (Position = AM)	<b>Recommendation 6.</b> The Plan should specifically direct the Judicial Council and the courts to gather data on language service needs in each case, including at a minimum the language(s) needed and the type of case or proceeding. This data should be made public in order to inform development of policies and also to determine how best to invest resources in training for interpreters and courts.	The JWG agrees.
41 Legal Services and Community Organizations (Position = AM)	6. [* <b>Proposed Language*</b> ] The Judicial Council and the courts must immediately expand and improve data collection on interpreter services, and immediately expand language services cost reporting to include amounts spent on other language access services and tools such as translations, interpreters or language services coordination, bilingual pay differential for staff, and multilingual signage or technologies. This information is critical in supporting funding requests as the courts expand language access services into civil cases.	Recommendation No. 6 has been partly revised in agreement with this comment. This recommendation is already slated for Phase 1, which means it is prioritized for immediate implementation, thus addressing the proposed edit to add the term “immediately.”
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[* Recommendation No. 6*] Currently under way under new Judicial Council reporting requirements. Some trial courts will require additional resources in order to meet these requirements fully. Until courts can develop more robust systems for collecting this data routinely, an effort needs to be made to sample or otherwise begin to get estimates of the need and costs without waiting for every court to begin reporting.	The JWG recognizes that full implementation of some of the recommendations in this plan will require additional resources. While Recommendation No. 6 is prioritized for Phase 1, the phasing language clarifies that implementation “must begin by year 1 (2015)” but does not require it be completed by year 1.
Sue Alexander, Commissioner, Superior Court of Alameda County	Recommendation 7 – Add county social services to list.	The JWG agrees. Recommendation No. 7 has been revised accordingly.



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California Rural Legal Assistance, Inc. (Position = AM)	<p><b>Recommendation 7: Use of sources beyond the US Census.</b> We appreciate the Plan’s acknowledgement, in recommendation 7, of the importance of using other sources of data beyond the US Census in assessing language needs. However, we echo the concern raised in the comments submitted by legal services organizations that the placement of Recommendation 7 in Phase II of the Plan’s implementation would cause problematic delays in the achievement of the Plan’s broader goals.</p> <p>In order for the Judicial Council and the courts to understand the extent and diversity of the indigenous language speaking population in California, it is essential that they consider sources beyond the US Census. As we pointed out in the legal services organizations’ comments on the draft outline for the Plan, the Census does not provide meaningful data on indigenous language speakers, identifying most indigenous languages only by broad language families, which does not help in determining the actual language needs of court users. Under the draft Plan, no meaningful information would be gathered on the indigenous language speaking populations in California until 2016 or later, hampering the courts’ and the Judicial Council’s ability to adequately plan for and meet these needs.</p> <p>Much work is needed to build the capacity of indigenous interpreters and establish procedures for serving indigenous language speakers outside the courtroom. These efforts must be informed by a more accurate understanding of indigenous language needs on a court-by-court basis. A number of California-based researchers who have extensive experience with indigenous communities could be enlisted to assist in</p>	The JWG disagrees with moving Recommendation 7 to Phase 1 at this time. However, as provided for in the description of the Plan’s timeline for phases, every recommendation in this plan should be put in place as soon as resources are available and necessary actions can be taken. Further, the plan allows for the Implementation Task Force to determine that Recommendation 7 should be moved to Phase 1, if appropriate, after further analysis.

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	gathering this data. This work should begin immediately and be included in Phase I of the Plan.	
41 Legal Services and Community Organizations (Position = AM)	<p>7. <b>[*Proposed Language*]</b> The Judicial Council and the courts must look at other sources of data beyond the U.S. Census to ensure that a court is effectively capturing the anticipated language needs for court programs and court proceedings. Courts should rely on data provided by the local school systems, health departments, and welfare agencies, in addition to consulting with community-based organization, refugee services organizations and any other local groups that works with LEP populations.</p> <p>Proposed Revised Timeline: Recommendation 7, listed above, is currently categorized under “Phase II,” treated as a recommendation that is “less urgent or require completion of Phase I tasks. Recommendation 7 must be included in Phase I so as to ensure that courts are adequately anticipating their language needs.</p> <p>[*Noted on pg. 6 of comments provided*] It is perplexing that the LAP acknowledges the deficiencies in the Census data, identifies more reliable sources, and then fails to direct that the superior sources be utilized in a timely manner. These more reliable sources include: enrollment data collected by the California Department of Education; data collected by local welfare agencies; data collected by the Migration Policy Institute; and a study conducted by California Rural Legal Assistance regarding indigenous languages spoken in California rural communities.</p>	<p>The JWG disagrees with moving Recommendation 7 to Phase 1 at this time. However, as provided for in the description of the Plan’s timeline for phases, every recommendation in this plan should be put in place as soon as resources are available and necessary actions can be taken. Further, the plan allows for the Implementation Task Force to determine that Recommendation 7 should be moved to Phase 1, if appropriate, after further analysis.</p> <p>While the JWG appreciates the additional detail suggested, the JWG believes the language of the recommendation is sufficient.</p>
Superior Court of Orange County, Alan Carlson, Court Executive Officer	[*Recommendation No. 7*] Recommend local courts report and consider local need only. It is not clear how knowing population characteristics will help a court with planning for either the	The JWG believes the recommendation, as written, is clear and provides for research of data at the state level for statewide related needs, and at the local level for

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<b>Goal I: Improve Early Identification of and Data Collection on Language Needs.</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
(Position = AM)	general need for interpreters or the need for interpreters on specific days. At best, the type of information listed should be used at the state level to identify where there may be a need for language assistance that is unlikely to be met with existing resources, thus suggesting the efforts described in the outreach recommendations be focused on specific languages.	local court needs. Further detail may be provided in subsequent stages by the Implementation Task Force if deemed necessary.

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<b>Goal II: Provide Language Access Services in All Judicial Proceedings</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Diana Barahona, Court Interpreter, California Federation of Interpreters (Position = N)	<p>Regarding Appendix A: Phase-In of Recommendations: PHASE I: These recommendations are urgent or should already be in place. Actions to begin implementation of these recommendations should begin by year 1 (2015).</p> <p>#8 Expansion of court interpreters to all civil proceedings. Qualified interpreters will be provided in the California courts to LEP court users in all courtroom proceedings and in all court-ordered/court-operated events.</p> <p>Missing from Phase 1 is the urgent need for courts to stop charging parties for interpreting services they receive, which is a violation of their civil rights under Title VI of the Civil Rights Act. In the Compton courthouse, Dept. M, the court is still ordering parties who use an interpreter to pay \$76 for each hearing. This practice must stop immediately.</p> <p>Another practice that must stop immediately is civil clerks instructing parties to bring their own interpreters to court-ordered mediations and other court-ordered events. Instead, civil clerks must be instructed to call interpreter services and schedule interpreters for court-ordered events.</p>	<p>Within the context of the draft plan, the term “provided” (as in “qualified court interpreters will be provided”) means at no cost to the LEP court user and without cost recovery. Additionally, AB 1657 (Stats. 2014, ch. 721) for the first time provides in California law that courts may not charge litigants for the cost of providing an interpreter. Prior to this language, California law permitted courts to charge for these services.</p> <p>The committee appreciates the clarification that where and when appropriate, civil clerks should be instructed to call interpreter services and schedule interpreters for court-ordered events. Recommendations No. 8 and 10 provide that qualified interpreters will be provided in the California courts to LEP court users in all courtroom proceedings and in all court-ordered and court-operated events. A number of recommendations address proper training for court staff on all aspects of the plan.</p>
Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)	<p>Recommendation 8 - Since current provisions for interpreters include minors and parents in dependency cases only if an attorney has been appointed, Phase 1 should include interpreters for minors and parents who are self-represented in dependency cases.</p> <p>To clarify, Other Family Law are family law matters (dissolutions, legal separations, nullities and petitions for custody and support) that do not have domestic violence allegations, whether there are children or not. UPAs would be included in Phase 1 as parentage is determined in those matters.</p>	<p>Recommendation No. 8 has been revised to reflect the legislative mandate, effective January 1, 2015, of new Evidence Code section 756. Further, the JWG has revised the timeline for Recommendation No. 8, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3).</p>

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	Where do family law cases with children born before or after separation fall? Is there a distinction for cases with/without Voluntary Declarations of Paternity? Since determination of whether the court provides an interpreter or not during the phase in will be so fact specific, it may be better to just include all family law matters with children and/or domestic violence allegations in Phase 1. (I realize that will increase the funding need.)	
California State Bar’s Standing Committee on the Delivery of Legal Services (Position = AM)	The plan provides for a phase-in approach for the provision of interpreters by case type where “immediate expansion of language access in all civil proceedings overtaxes a court’s resources, either in terms of availability of appropriately qualified interpreters or availability of funding for interpreting services.” SCDLS prefers an immediate implementation of this goal no matter the case type given the implications that language barriers have on access to justice, but if not feasible, then priority should be given to litigants that have identified themselves as indigent. SCDLS also points out that many litigants in family law proceedings are unrepresented and encourages a plan that would immediately phase in interpreters for all such proceedings.	Recommendation No. 8 has been revised to reflect the legislative mandate, effective January 1, 2015, of new Evidence Code section 756. Further, the JWG has revised the timeline for Recommendation No. 8, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3).
California Association of Family Court Services Directors (Position = AM)	The Issue Description for Goal IIb uses Family Court Services mediation to illustrate the need for Interpreters in Court-Ordered/Court-Operated Proceedings. It is very difficult to reconcile this clear and strong statement with the failure to explicitly include Family Court Services mediation in Phase I of Phase-In Recommendation #8 in Appendix A.  Family Law Mediation is a critical stage in the life of the child and the family. Family Code section 3170 requires that all actions to obtain or modify a custody or visitation order utilize Court-connected mediation services. Statewide, more than half	The JWG agrees that child custody mediation as well as recommending counseling are critical stages in family law proceedings involving children.  Recommendation No. 8 has been revised to reflect new legislation, effective January 1, 2015, establishing Evidence Code section 756. Family Court Services Mediation is considered part of Phase 1 per the prioritization in Evidence Code 756.

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	<p>the cases in Family Law Mediation result in agreements about child custody and visitation which become orders of the Court. In 34 of the 58 counties, if no agreement is reached the mediator makes a recommendation to the Court. Mediators are mandated to help effect a settlement of issues, or make a recommendation, in the best interest of the child. They cannot do this with LEP litigants without adequate interpreter services.</p> <p>The Phase-In Recommendation gives priority to Domestic Violence cases brought under Division 10 and where DV protective orders have been or sought or granted, but it overlooks the fact that FCS mediators must address Domestic Violence issues even if they have not been the subject of formal court action. Pursuant to Family Code sections 3011 and 3170(b), and the extensive protocol in Rule of Court Rule 2.215, mediators are mandated to screen for and address DV in all Family Law cases. It is reasonable to suspect that LEP parents are less likely to avail themselves of the statutory protections for Domestic Violence, and are the most in need of interpreters for clear communication with a FCS mediator who is screening for these issues.</p> <p>The Phase-In Recommendation gives priority to cases involving Determination and Termination of Parental Rights, but when read in conjunction with the category “Other Family Law” in Phase II, this language implies the issues are limited to those in Division 12 of the Family Code. This overlooks the fact that a determination of paternity will almost always result in Family Court Services mediation of the issues of custody and visitation under Division 8. In a Family Law case under Division 8, when FCS mediation contributes to an order for sole legal and physical custody to one parent, the result is a de facto temporary termination of parental rights.</p>	

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	<p>The Phase-In Recommendation gives priority to Guardianship cases, but overlooks the fact that the issues in Family Law mediation are, from the child's standpoint, identical. Custody, visitation, and domestic violence issues addressed in court-connected Family Law mediation are coequal with and essential components of the issues and actions in three of the four categories that are included in Phase I of Phase-In Recommendation #8. The cost of including FCS mediation in Phase I will be relatively small because Family Court Services departments use mediators who are bi-lingual in Spanish to a great extent. When they aren't available, and for other languages, providing interpreters for LEP parties in FCS mediation is essential and deserves the highest priority. Family Court Services mediation should be explicitly included in Phase I of Phase-In Recommendation #8 in Appendix A.</p>	
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>Although we agree with Goal II's recommendation that qualified interpreters be provided to all LEP court users in courtroom proceedings, we disagree with the Goal's implementation timeline, the priorities outlined in the phases, and the overall tone with respect to existing federal and state law Goal II consistently repeats that no law requires provision of interpreters for civil litigants. As discussed in our introduction, the repetition of this position is flatly contradicted by federal and state law, as well as the considered opinion of the Department of Justice.</p> <p>Furthermore, the LAP's timeline to provide interpreters for all civil litigants by 2020 is simply too long and unjustified. Several phases elaborated upon in the LAP have already begun or should have begun. We agree that interpreters should be provided to all litigants, regardless of economic status. However, we are concerned that the LAP not only fails</p>	<p>Recommendation No. 8 has been revised to reflect new legislation, effective January 1, 2015, establishing Evidence Code section 756. Further, the JWG has revised the timeline for Recommendation No. 8, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3). Additionally, modifications have been made to the tone of the document.</p> <p>The JWG agrees that the terminology used in the draft plan for "court proceedings," and "court-ordered/court operated" proceedings or events was confusing. The plan has been revised to define each term more accurately, ensure consistency, and clarify when qualified court interpreters are to be provided by the court.</p>

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	<p>to include fee-waiver litigants in Phase I, but also fails to mention such litigants <i>at all</i>.</p> <p>Finally, we find the LAP’s subcategories confusing and inconsistent (e.g. courtroom proceedings, court-ordered, court-operated). Footnote 9 at page 12 defines “court-operated” programs or events as “any service or activity operated or managed by the court.” On page 34, the LAP references “court-ordered proceedings” as including mediation and other activities that are mandated by the court. Footnote 25 on page 36 combines “court-ordered/court-operated proceedings” which distinguishes between in-court events and out-of-court events. We recommend that the LAP clearly define the different categories of court-ordered, court-operated, and court-managed proceedings, services, and activities. Most important, qualified court interpreters must be provided for all activities ordered or mandated by the court.</p>	
<p>Superior Court of Fresno County, Sheran L. Morton, Court Executive Officer (Position = AM)</p>	<p><b>PHASE I – 8. Preference for in-person interpreters</b> <b>Recommendation: delete from the Language Access Plan (LAP).</b> Throughout our recent bargaining over Video Remote Interpreting (VRI), the interpreter’s union California Federation of Interpreters (CFI) representatives continually requested to insert this language in the Memorandum of Understanding (MOU). The Region continuously rejected this language for the following reasons:</p> <ul style="list-style-type: none"> <li>• In Region 3 (made up of 32 courts), during the calendar year of 2013, we were only able to fill approximately 38% of all requests for an interpreter. Now that the Governor has signed AB 1657 (Gomez) which allows for expansion of interpreter services, we need all possible means available to meet the demand for interpreter</li> </ul>	<p>The JWG believes that, generally, the use of in-person, certified and registered court interpreters is preferred for court proceedings as defined in the plan. Recommendation No. 12 (former No. 11), as revised, provides for discretion by the court to use remote interpreting where it is appropriate for a particular proceeding, as long as LEP court users can fully and meaningfully participate.</p> <p>The JWG believes that the language in the plan will allow for remote interpreting to help fill many of the requests in the region which in the past remained unfilled. Even if there is generally a preference for an in-person interpreter, this preference will be irrelevant where no certified or registered interpreter is available in person. The JWG believes that when applying the</p>



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	<p>services if we are truly going to provide quality and therefore meaningful access.</p> <ul style="list-style-type: none"> <li>• A preference for in-person interpreting is also counterproductive to implement Phase II – 14: <i>Pilot for central pool of remote interpreters</i>. If we are able to create this pool of highly qualified certified and registered interpreters, to maximize their availability, we will want to utilize VRI, to maximize services to courts and limited English proficient (LEP) court users.</li> <li>• A preference for in-person interpreting is also counterproductive to implement Phase II – 30: <i>Pilot for Remote assistance and self-help centers</i>. We have already begun to envision how we can utilize our interpreter resources for our self-help centers. To maximize quality talent, we need to be able to utilize VRI, without adverse actions by CFI.</li> </ul> <p>In August of 2013 the Chief Justice announced her vision of for improving access to justice for Californians, “Access 3D.” including remote and electronic access [FN: Cantil-Sakauye, Tani G., Letter from the Chief Justice of California, Strategic Plan for Language Access in the California Courts, Draft July 29, 2014, page 4.] The LAP does not need to set forth an in-person preference. We need to remain neutral, and focus on the most qualified – certified and registered interpreters to ensure the most meaningful access possible.</p>	<p>language in the plan, the use of certified and registered interpreters will increase, over provisionally qualified interpreters.</p> <p>In relation to Recommendation 17 (former No. 14), the JWG believes that the language in the plan is flexible enough to allow courts to make great use of a centralized pool of interpreters, most likely, but not exclusively, allowing courts to utilize the pool for urgent, short and/or non-complex matters where remote interpreting will allow for full and meaningful participation.</p> <p>In relation to Recommendation 31 (former No. 30) and self-help centers, the general preference for an in person interpreter does not apply, as the related recommendations regarding a preference for in-person interpreters are specific to courtroom proceedings.</p> <p>Additional guidelines and minimum standards are set forth in the plan.</p>
<p>California Rural Legal Assistance, Inc. (Position = AM)</p>	<p>We strongly support the Plan’s goal of providing language access services in all judicial proceedings and court-ordered and operated events. We echo the concerns expressed in the comments on behalf of legal services organizations about the Plan’s lack of urgency, and we urge the Joint Working Group and the Judicial Council to establish a shorter timeline for</p>	<p>Recommendation No. 8 has been revised to reflect new legislation, effective January 1, 2015, establishing Evidence Code section 756. Further, the JWG has revised the timeline for Recommendation No. 8, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3).</p>

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	achieving this central goal of the Plan. If interpretation in civil proceedings must be phased in, we also strongly urge that the Plan give first priority to the provision of interpreters for fee waiver litigants in all case types, for the reasons detailed in the legal services organizations’ comments.	The JWG decided to include Recommendation No. 10 (regarding court-ordered, court-operated events) in all 3 phases of implementation, so that implementation may begin immediately in phase 1. However, resource considerations for local courts may result in later implementation timelines.
Indigenous Language Interpreters and Community Organizations (Position = AM)	<b>Recommendation 8.</b> We support the expansion of access to interpreters in all case types. However, the courts should also understand the importance of access to interpreters before individuals arrive at the courthouse and use their role to influence other agencies to provide interpreters as well. For example, social workers should always use interpreters in working with indigenous language speaking children and families to ensure accurate communication and avoid negative consequences once families get to court.	The Language Access Plan cannot require justice partners and other non-court agencies or organizations to provide interpreters. However, a new recommendation, No. 11, has been included to provide for courts to consider the language services accessibility of outside programs in making court orders. Recommendation No. 33 (former No. 32) addresses language access services by outside professionals appointed by the courts, and considerations in identifying or contracting with providers who can provide linguistically accessible services.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	<p>Recommendation 8. Expansion of interpreters to all civil proceedings. The term "qualified interpreters" should be defined throughout the document to mean certified or registered. Although this information is included in a footnote, it is not clear throughout the document what “qualified” means and this may not be understood by readers who do not see the footnote.</p> <p>As noted in our general comments, we do not believe it is necessary to wait until 2020 to provide interpreters in all court proceedings. This recommendation should make clear that the intent is for courts to provide interpreters in all court proceedings as quickly as possible, and that it is not the intent of this recommendation, or the phase in recommendations, for</p>	<p>Definition of qualified interpreter The plan has been revised to clearly define “qualified interpreter” at the outset.</p> <p>Timeline Recommendation No. 8 has been revised to reflect new legislation, effective January 1, 2015, establishing Evidence Code section 756. Further, the JWG has revised the timeline for Recommendation No. 8, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3). The explanation of the implementation phases has also been revised to clarify that the phases are not intended to cause courts to stop providing services where they are already provided and</p>

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	<p>courts to stop providing services in areas where they are already providing interpreters. Many courts are already providing interpreters in Phase 2 cases, such as general family law and civil harassment. It would be important to clarify this to avoid a court determining that in order to expand to Phase 1 unlawful detainers, they will stop providing interpreters in family law matter, which are designated as Phase 2 in the LAP.</p> <p>The recommendation to give priority to in-court proceedings over court-ordered events may be impractical and counterproductive. For example, court-ordered mediations are often critical for a family law case to proceed efficiently in court. It does not make sense to provide an interpreter for a proceeding but not for the mediation. This approach may well result in the proceeding being continued at a cost to the court and the parties if they cannot proceed with the mediation due to lack of an interpreter.</p> <p>Additionally, court-ordered mediations are currently included as part of the bargaining unit work of staff interpreters and are covered routinely in many courts. It would not be appropriate for courts to stop providing interpreters for such events as a result of the LAP's phase in schedule, and if as a result parties had to bring their own interpreters, this would violate the interpreter MOU's.</p>	<p>where resources exist for expansion.</p> <p>Custody mediation: See response above regarding inclusion of child custody mediation as well as recommending counseling in Phase 1.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p><b>8. [*Proposed Language / Suggested Changes to the timeline with new subcategories.*]</b></p> <p>Qualified interpreters will be provided in the California courts to LEP court users in all courtroom proceedings in all court-ordered/court-operated events. Where immediate expansion of language access into all civil proceedings overtaxes a court's resources, either in terms of availability</p>	<p>Recommendation No. 8 has been revised to reflect new legislation, effective January 1, 2015, establishing Evidence Code section 756. Further, the JWG has revised the timeline for Recommendation No. 8, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3).</p>

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	<p>of appropriately qualified interpreters or availability of funding for interpreting services, language access will be phased in as outlined below.</p> <p>For Immediate Implementation:</p> <p>Domestic Violence (including actions and proceedings under Division 10) commencing with Section 6200 of the Family Code, as well as actions and proceedings in the following matters in which a protective order has been granted or is being sought: (1) the Uniform Parentage Act; (2) dissolution, nullity, or legal separation [these are already mandated cases]; All cases brought by fee waiver litigants</p> <p>Phase I (begin year 1, 2015): Language services shall be provided for all required mediation and other required ancillary court services.</p> <p>Physical abuse or neglect under the Elder Abuse and Dependent Adult Civil Protection Act, commencing with Section 15600 of the Welfare and Institutions Code). Unlawful Detainers Determination and Termination of Parental Rights Conservatorships/Guardianships Family Law Proceedings involving issues of custody or visitation of minor children Civil Harassment Proceedings</p> <p>Phase II (begin year 2, 2016):</p>	

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	<p>Where resources permit providing qualified interpreters in additional case types, courts will provide interpreters in the following cases, in order:</p> <p>Other Family Law Other Civil</p>	
<p>Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 8*] Further clarity regarding the scope of “all court-ordered/court-operated events” is needed. This aspect of the recommendation potentially impacts a broad array of services including mediation (in family law, juvenile and civil settings), self-help center workshops, and those resulting from collaborative court processes; using a broad definition of events, this recommendation would be extremely difficult to implement, particularly in Phase I.</p>	<p>The JWG agrees that the terminology used in the draft plan for “court proceedings,” and “court-ordered, court operated” proceedings or events created confusion. The plan has been revised to define each term more accurately, ensure consistency, and clarify when qualified court interpreters are to be provided by the court.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 8*] Recommend each trial court consult with HR Employment Relations staff and regional counterparts prior to implementation of expanded language access.</p> <p>Since accurate data is unavailable in most trial court’s case management systems it is not known what the impact of full expansion would be on the budget or interpreter resources.</p> <p>Recommend that the Judicial Council provide answer forms for Unlawful Detainers and other civil causes of action in the most frequently used languages, or that the forms have a space for early identification of language needs so that interpreter coordinators may receive advance notice.</p> <p>Recommend that the Judicial Council review and modify Family Law and other forms to include space for self-</p>	<p>Recommendation No. 8 has been revised to reflect new legislation, effective January 1, 2015, establishing Evidence Code section 756. Further, the JWG has revised the timeline for Recommendation No. 8, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3).</p> <p>The JWG recognizes that courts have different case management systems, if at all, and that the development of case management systems must integrate language access needs.</p> <p>Commentator’s specific suggestions regarding the need to know budget impacts, necessary form changes, and identification of calendar models that optimize the use of interpreter resources will be presented to the Implementation Task Force.</p>

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	<p>identification in matters that would require an interpreter.</p> <p>Recommend that when expanded language access is provided to new civil areas, courts should utilize calendar models that optimize use of interpreter resources.</p>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 9*] Recommend INT120 be modified or eliminated. Onerous duty for each case. Recommend alternatives to the process and/or updating the form. (Administrative Hearing interpreters are no longer an active class of interpreter.) Consider a single form for difficult to find languages such as – Portuguese, Tagalog, and Japanese.</p>	<p>Recommendation No. 73 (former No. 74) recommends updating the INT forms.</p>
<p>Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)</p>	<p>Recommendation 10 – More clarity is needed regarding court ordered, but not provided, services. Many services are not court provided, e.g. batterers treatment, DUI classes, traffic schools, parenting classes, etc. What “consideration” can the court give if these services are not provided in the community in the litigant’s language? Will the DMV accept an alternative to traffic school? Statutory changes to some mandatory sentencing provisions?</p>	<p>The JWG agrees that the terminology used in the draft plan for “court proceedings,” and “court-ordered/court operated” proceedings or events was confusing. The plan has been revised to define each term more accurately, ensure consistency, and clarify when qualified court interpreters are to be provided by the court. The Language Access Plan cannot require justice partners and other non-court agencies or organizations to provide interpreters. However, courts may consider the language services accessibility of outside programs in making court orders.</p>
<p>Superior Court of Placer County, Jake Chatters, Court Executive Officer (Position = AM)</p>	<p>Recommendation 10 (Page 35) – The Working Group recommends that courts provide qualified interpreters at all “court ordered/court-operated proceedings” by 2020.</p> <p>We would suggest separating this recommendation into two parts. The first recommendation could focus on court-operated proceedings and retain your 2020 implementation date. Further, the narrative prior to the recommendation suggests that these types of proceedings may use modes of language access</p>	<p>The JWG agrees and has clarified Recommendation No. 10 to address all court-ordered AND court-operated programs, services and events. A new Recommendation No. 11, has been added to address court-ordered programs that are not operated by the court</p>

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	<p>other than certified interpreters, but the recommendation itself is worded to limit the language access to certified interpreters. Allowing for varied modes, dependent on the service or program, would be consistent with the balance of the Strategic Plan and may allow for more rapid, but still appropriate, implementation within the stated timeframe.</p> <p>The second recommendation could then focus on court-ordered proceedings. A simple read of the existing text seems to suggest the Working Group is recommending court funded and provided interpreters for any program ordered by the court in any case type. The scope of this recommendation is daunting and, in contrast to the great care taken by the Working Group on other recommendations, is so large as to create a feeling of paralysis. It would be helpful if the Working Group would give some priority to types of programs or case types to allow the implementation to be evaluated and, if approved, implemented in stages. For example, is it more important to provide these services in family law to ensure access to supervised visitation or in criminal to those sentenced to probation and ordered to attend drug and alcohol programs? Both present interesting challenges as courts would face potential complications related to hours of work, safety, and equity for interpreters assigned to these non-court offered programs.</p>	
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 10. The meaning of “court-ordered/court-operated events” should be defined with examples.	The JWG agrees and has revised the plan language accordingly.
41 Legal Services and Community Organizations (Position = AM)	<b>[*Proposed Language and Timeline Recommendation*]</b> 10. Beginning immediately, as resources are available, but in no event later than 2016, courts will provide qualified court	The comment in part conflates court proceedings with those events intended under Recommendation No. 10 (court-ordered, court-operated events outside of the

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	<p>interpreters in all court-ordered/court-operated proceedings to all LEP litigants, witnesses, and persons with a significant interest in the case. Immediate implementation shall prioritize: fee waiver litigants and mandated cases under current Evidence Code 755. Phase I shall include other non-mandated restraining order hearings, family law custody and visitation hearings, unlawful detainer hearings, guardianship hearings and conservatorship hearings. This shall include the provision of language services for mediation and other required ancillary court services.</p>	<p>courtroom). To clarify, the terminology used in the draft plan for “court proceedings,” and “court-ordered, court operated” events has been revised to define each term more accurately, ensure consistency, and clarify when qualified court interpreters are to be provided by the court. In addition, a new Recommendation, No. 11, has been added to address court-ordered programs that are not operated by the court</p> <p>With regard to the part of the comment regarding prioritization of court proceedings (addressed in the plan under Recommendation No. 8), Recommendation No. 8 has been revised to reflect new legislation, effective January 1, 2015, establishing Evidence Code section 756 (and repealing Evidence Code section 755). The timeline for Recommendation No. 8 has been similarly revised, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3).</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 10*] CIAP and the Joint Working Group have had a lot of discussion regarding this recommendation. The wording is vague, but it was the general consensus that this should include ALL court ordered proceedings including traffic school, batterer’s programs, Cal Trans, etc.; and that if the court cannot contract with a provider that provides the services in the required language, the court should arrange for an interpreter. There are a few members – those of us more administratively inclined – that have argued that this recommendation should read courthouse proceedings or court-ordered/operated proceedings in the courthouse during normal business hours.</p>	<p>The JWG’s intent was never to include all court-ordered proceedings as provided in this comment. The intent of the JWG was to include only those court-ordered events and activities which are operated and managed by the court. The draft plan, however, was unclear in its use of terminology used for “court proceedings,” and “court-ordered/court operated” proceedings or events. The plan has therefore been revised to define each term more accurately, ensure consistency, and clarify when qualified court interpreters are to be provided by the court. With this clarification, the other concerns raised in the comment should no longer apply.</p>



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	<p>What level of “qualified” court interpreter? Certified and registered for ALL programs?</p> <p>Recommend consideration must be given for using interpreters with oral proficiency level qualifications.</p> <p>This would mean scheduling interpreters on weekends? Would this be employee interpreters on OT? What if there is a problem and the interpreter doesn’t show up – does a coordinator need to be on call? How many more coordinators would be required to arrange interpreter services for weekend/evening proceedings? If interpreter offices are to supply interpreters during business hours to travel to an outside facility for an evaluation other than the jail, this would increase work for coordinators and more interpreters (and coordinators) would be needed. For example, the court may authorize an interpreter for any service needed (investigation, visitation or any participation in services).</p>	<p>In addition, a new Recommendation No. 11 has been added to address court-ordered programs that are not operated by the court.</p>
<p>Diana Barahona, Court Interpreter, California Federation of Interpreters (Position = N)</p>	<p>Regarding the use of VRI to expand language access: I support the position of the California Federation of Interpreters, which stated the following: “The experience of judicial systems in other states, as well as its application in private industry indicates that VRI is often implemented with unreasonable expectations for its potential to increase language access services and reduce costs while ignoring concerns and the limitations of the technology. Large outlays of capital are undertaken to implement the technology resulting in users becoming invested in the use of VRI regardless of the harm it may cause. This then presents court administrators with the problematic choice of maintaining a commitment to use a system that oftentimes does not provide meaningful access, or abandoning a significant investment that was originally meant</p>	<p>The issue description in Goal 2 addresses the advantages and disadvantages of remote interpreting and the need for appropriate safeguards to be put in place.</p> <p>The plan also explicitly states that court interpreters must be qualified and must follow professional standards and ethics. Whether or not a court hires an interpreter through an agency is irrelevant, as the court is still required to use qualified interpreters and establish the basis for their qualification. The JWG believes this language will increase the use of certified or registered interpreters, since courts will now have access to interpreters working across the state, and possibly the country. As an example, California’s courts now have</p>

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	<p>to save money.”                      (September 2013) <a href="http://www.calinterpreters.org/wp-content/uploads/2013/10/CFI_VRI_Position.pdf">http://www.calinterpreters.org/wp-content/uploads/2013/10/CFI_VRI_Position.pdf</a></p> <p>There has been a headlong rush by courts to outsource interpreting services to companies promising lower costs without asking for any input from interpreters themselves. The draft Access Plan itself highlights the many problems with remote interpreting, but without asking whether these problems, and the investment in the technology, will be worth the savings in labor costs. The Access Plan only vaguely mentions potential savings (and in my view, exaggerates them) without giving any numbers. How much money are these private companies going to charge per day or per half-day or per hour for a remote interpreter?</p> <p>Additionally, are these interpreters all certified and registered? Since the Access Plan does not state categorically that certified or registered interpreters must be used in all court proceedings involving widely-spoken languages, I suspect that the prices quoted by the private companies may be for interpreters who are not certified or registered in California.</p> <p>Furthermore, although the Access Plan calls for giving the remote interpreter the opportunity to say that it’s not working out, does anyone really believe that an interpreter working for a private company is going to say the hearing should be rescheduled so that a live interpreter can come in? Employees or even independent contractors are going to do what their employers want them to do, and that means that they absolutely will not say that their company should not be used for a hearing. And if that is the case, who is going to advocate for the LEP persons?</p>	<p>access to 5.7% more certified ASL interpreters who have joined the Master List from out of state in order to interpreter remotely. To ensure that qualified court interpreters provide language access services, whether in-person or through remote technology, the draft plan provides as follows:</p> <ul style="list-style-type: none"> <li>a) Goal 2 addresses using qualified court interpreters for all judicial proceedings by 2017, and Recommendation No. 8 reiterates the use of qualified interpreters.</li> <li>b) The plan defines that qualified interpreters are certified or registered, or provisionally qualified. The plan also tightens the rules/requirements for a finding of good cause regarding provisional qualification (See Goal 2, Rec. No. 9, and Goal 8, Rec. No. 70 [former No. 71]; see also Rec. No. 50 regarding training on provisional qualification).</li> <li>c) Appendix B, No. 6, states that “[t]he same rules for using qualified interpreters apply to assignments using RI [remote interpreting]. It is the intent of this language access plan to expand the availability of certified and registered interpreters through the use of RI. All interpreters performing RI should be familiar with, and are bound by, the same professional standards and ethics as onsite court interpreters.”</li> </ul>

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	<p>Finally, the remote interpreting companies are for-profit, whereas most court interpreting is performed by state employees. These private companies can only make a profit if their employees receive less in total compensation than public employees, which they will because they will not be unionized.</p> <p>The requirement by the DOJ that the courts stop violating the civil rights of LEP individuals should NOT be used as an excuse to outsource work done by unionized state employees to non-union private corporations. As with all other cases of outsourcing, there will NOT be any real cost savings, but simply a shift in costs from the courts to workers receiving lower pay and benefits (and lowered state tax revenues), and a shift in income from state employees to profit out-of-state corporations.</p> <p>Therefore, I propose is that the Access Plan recommend that VRI be put on hold until every effort has been made to use the current interpreter workforce, which includes independent contractors, to interpret in family courts, UD courts, small claims courts, civil courts and mediations. To date, there have been no meetings that I am aware of among court administrators, bench officers and court interpreters to see if some civil proceedings can be covered by assigned interpreters or with floaters.</p>	
Diana Barahona, Court Interpreter, California Federation of Interpreters (Position = N)	<p>I am submitting an article about the experience of courts in the UK after they outsourced interpreting services to a private corporation. It is titled, "Lost in privatisation: Capita, court interpreting services and fair trial rights (<a href="http://www.irr.org.uk/news/lost-in-privatisation-capita-court-interpreting-services-and-fair-trial-rights/">http://www.irr.org.uk/news/lost-in-privatisation-capita-court-interpreting-services-and-fair-trial-rights/</a>)</p>	<p>The JWG has reviewed relevant literature, including the provided article, and finds the Plan adequately addresses the reported concerns. The purpose and intent of the Language Access Plan is to provide a wide array of options to benefit LEP court users, including use of in-person qualified court interpreters along with the appropriate use of remote technology with qualified</p>

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	<p>This move resulted in costly delays in proceedings, defendants remaining in jail just because they hadn't been able to obtain interpreters for them, and the use of less qualified interpreters by the private contractor. If California courts try to replace interpreters with VRI, the results will be even worse.</p> <p>[*Article text was submitted by commentator. Full text of article can be accessed at the link provided above by commentator.*]</p>	<p>court interpreters, to help expand language access, maintain high quality, and increase efficiency. Plan language does not replace interpreters with technology; it allows the same qualified interpreters, and more additional qualified interpreters, to provide their services through a different delivery mechanism.</p>
<p>California Commission on Access to Justice, Hon. Ronald B. Robie, Chair (Position = AM)</p>	<ul style="list-style-type: none"> <li> <p><b>Guidelines for the use of remote interpreting are important.</b> The Commission supports the use of remote interpreting as one means to ensure language access, and it also supports the development of strong guidelines regarding the factors to be considered in determining when to use remote interpreting. Therefore, the Commission supports Recommendation 12, “(r)emote interpreting in the courtroom should be used only after the court has considered, at a minimum, the specific factors set forth in Appendix B.” Appendix B incorporates Appendix D, and together they list multiple factors and circumstances to be considered in balancing the need to use court resources efficiently and conveniently against the need to ensure attorney client confidentiality and support effective interpretation.</p> </li> </ul>	<p>No response required.</p>
<p>ACLU of California and Other Community Organizations (Position = AM)</p>	<p>Considering the above concerns [*Note: ACLU narrative analysis provided in pages 1-3 of their letter is not included here*] , we provide the following recommendations:</p> <ol style="list-style-type: none"> <li> <p><b>VRI should not be implemented without statewide and enforceable standards in place to protect the integrity of the judicial process and the rights of all</b></p> </li> </ol>	<p>The JWG specifically reviewed the reference materials cited by the ACLU and did not find the actual holding of <i>Menchaca</i> to discourage remote interpreting. Similarly other cited materials discouraged the wholesale replacement of in-person hearings with hearings conducted remotely and did not address remote interpreting at all. While the JWG shares the ACLU’s</p>

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	<p><b>parties.</b> We urge the Judicial Council to adopt clear and enforceable rules on VRI to safeguard LEP rights as part of the language access plan. Standards for VRI must take into account the inherent limitations of video-mediated communications, set technological minimums, and ensure that the use of in-person interpreters is prioritized, as is already the case in other standards that have been adopted.[FN] Such standards should be established through a process that involves careful study of existing research as well as input from a broad array of stakeholders, and provides for testing and pilot programs to evaluate the success of implementation.</p> <p>2. <b>The Judicial Council should adopt rules and budget policies to ensure that individual courts do not implement VRI before a statewide plan can be finalized.</b> We note that although the Judicial Council is currently developing a language access plan for California that could address the use of VRI, and has created mechanisms for public input, individual courts are already forging ahead with their own plans and adopting their own practices for implementing VRI before the statewide plan is even finalized.</p> <p>3. <b>No assumption should be made that VRI is the one-stop solution to providing interpretation services.</b> We are encouraged by current efforts to adopt a statewide language access plan and to expand interpreter services to include all civil proceedings. We warn, however, that use of VRI is not an appropriate solution for expansion of interpreter services in most cases. Overreliance on VRI could create a two-tier system of justice, with second-rate access and compromised due process rights for LEP populations.</p>	<p>interest in assuring due process for court users, it continues to believe remote interpreting will allow increased language access and better access to the most qualified interpreters while assuring due process. The Plan does not suggest VRI as a one-stop solution to providing language access services, but rather part of a complex network of language services to expand access to interpreters, especially in cases where there would be no interpreter in the absence of VRI.</p> <p>To further clarify this commitment to due process, the JWG has included language which makes clear that any courtroom interpretation provided remotely must allow for full and meaningful access to the proceeding.</p> <p>The JWG has modified plan language to require consideration of the factors outlined in Appendix B. (i.e. now reads “must” and not “should”). Additionally Recommendation No. 14 has been added in order to have the Implementation Task Force establish specific minimum technology standards for remote interpreting when they are able.</p> <p>The JWG believes that the recommendations in the plan related to remote interpreting, together with the list of prerequisites, factors to be considered in every event and interim descriptive guidelines in Appendix B, along with the incorporation of Appendix C, and on an interim basis, Appendix D provides clear statewide standards.</p> <p>Further, the JWG believes that courts should continue to explore opportunities for expanding language access and do not need to wait for the adoption of the plan or for the</p>

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	<p>In sum, we oppose expanding the use of VRI in California courts before the language access plan is completed and without standards and rules that are based on validated research and that maximize access to justice and protect due process, and—except in rare situations where VRI is the best alternative to having no certified interpreter—we specifically object to the implementation of VRI in the Fresno Superior Court and other Region 3 courts given the reported technological shortcomings in their current equipment and capacity. Given the serious risks to the integrity of communications, accuracy and fairness, VRI should not be pursued or justified as a cost-cutting opportunity. Rather, it should be implemented to enhance and expand language access to ancillary services outside the courtroom. Its use for court proceedings should be restricted until such time as the courts have completed a thorough, realistic analysis of its true costs, including its impacts on civil liberties and the integrity of the judicial process.</p>	<p>implementation of any related pilots. When the plan is adopted, and any related pilots are conducted early-adopter courts will be in an excellent position to incorporate identified best practices.</p>
<p>California State Bar’s Standing Committee on the Delivery of Legal Services (Position = AM)</p>	<p>SCDLS agrees with Recommendation 11 that the use of in-person interpreters must be the preferred method of interpretation in court proceedings and court-ordered/court-operated events. While video interpreting may be more reliable than telephone interpreting, neither of these two methods should be used in most courtroom proceedings in the absence of exigent circumstances and/or without further evaluation of these modes of interpretation in courtroom proceedings or other court-connected proceedings, such as mediations. Before investing in video interpreting uniformly throughout the state, a pilot program could be developed in courts both in the urban and rural setting. The plan appropriately points out that the quality of interpreter services is critical to providing meaningful access to LEP court users, and through Goal VIII addresses the development of an evaluative and complaint</p>	<p>The JWG has included additional language in the plan describing the American Sign Language Interpreting pilot which took place in California’s courts and helped establish that remote interpretation can be an effective method of providing full and meaningful language access to courtroom proceedings for those who do not speak, (hear), or understand spoken English. While the JWG agrees that additional evaluation could be valuable, it believes that courts should continue to explore opportunities for expanding language access and do not need to wait for the adoption of the plan or for the implementation of any related pilots. When the plan is adopted, and any related pilots are conducted early-adopter courts will be in an excellent position to incorporate identified best practices.</p>

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	process for all aspects of language access, including interpreter quality.	
California Federation of Interpreters, by Ariel Torrone, President (Position = AM)	<p>[*Note: excerpts follow*] We urge the working group to include strong recommendations in the LAP to ensure that VRI use is approached responsibly, with strict limitations that clearly define appropriate use. This is absolutely necessary to avoid adverse impacts on LEP court users and on the public perception of the judiciary that will result if VRI is implemented irresponsibly, as is already happening in Region 3.</p> <p>... Even the best equipment and conferencing software available to date is inadequate in a courtroom for all but the most basic and limited communications, and using in-person, qualified interpreters is the best option to protect due process and civil liberties for any court proceeding. Because of this, we propose strictly limiting VRI to situations where no in-person interpreter is available such as for rare languages and, in those limited instances, to allow VRI use only for short, non-evidentiary proceedings, such as initial appearances or bail review hearings. We also propose that VRI (with high-quality equipment) is appropriate for out-of-court matters such as in self-help centers or one-on-one conversations, situations where interpreter services can be expanded without compromising the quality of access and scope of services that are so critical in courtroom proceedings.</p> <p>VRI proceedings will provide second-rate services to LEP communities and compromise the interpreter’s ability to provide meaningful access, as well as our ability to provide the speed and scope of services judges have come to rely on from skilled in-person interpreters.</p>	<p>Please see response to Diana Barahona, the ACLU and California State Bar’s Standing Committee on the Delivery of Legal Services.</p> <p>With the standards and guidelines in the plan and the inclusion of language requiring full and meaningful access when interpretation is provided remotely, the JWG specifically disagrees that remote interpreting provides second rate services to LEP court users.</p> <p>While there are disagreements with this assertion about the quality of VRI in Region 3, the JWG is not in a position to provide region specific recommendations and is instead moving forward with a statewide language access plan.</p>

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	<p>VRI proceedings cannot be conducted in simultaneous mode; only consecutive mode is feasible with turn taking and pauses for interpretation. This alone, without considering technical logistics and challenges, will double the time it takes to process cases.</p> <p>Providing language access in the legal setting is a highly specialized area of professional interpreting practice, and must be handled with great care given the fundamental rights at stake for LEP communities.</p> <p>The purpose of the LAP is to make language access practices in state courts consistent with Title VI of the Civil Rights Act of 1964 and associated regulations that prohibit discrimination based on national origin. We urge you to include a recommendation in the LAP that clear, statewide rules be adopted to appropriately limit VRI use, and that these include an unambiguous preference and priority for the use of in-person interpreters.</p> <p>The VRI experiment in Region 3 demonstrates that local discretion is not an effective way to approach language access. It is irresponsible to implement VRI in this manner, and before statewide rules and standards are adopted. The LAP should address this with recommendations that carefully restrict VRI use and safeguard against misuse that will compromise the rights of LEP communities.</p>	
Indigenous Language Interpreters and Community Organizations (Position = AM)	<p><b>Recommendation 11.</b> The Spanish translation of this recommendation states that “courts may consider the use of remote interpreting where it is appropriate <b>or advantageous</b> for a particular proceeding.” However, the English version does not contain the words “or advantageous.” The words “or advantageous” should <u>not</u> be included in the final Plan, since</p>	Recommendation No. 12 (former No.11) has been revised. The word “advantageous” is no longer included.



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	allowing courts to use remote interpreting when “advantageous” would allow for too much freedom to use technology when in-person interpreting would be far superior.	
Superior Court of Placer County, Jake Chatters, Court Executive Officer (Position = AM)	Recommendation 11 (page 39) – We support the Working Group’s recommendations for use of technology to expand language access. In particular, we wish to support your well crafted proposal to expand access through technology while maintaining in-person language services where vitally important.	No response required.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	<p>Recommendation 11. Preference for in-person interpreters. See CFI comments on VRI in our LAP Public comments (pp. 10-13). Any use of remote interpreting in court proceedings must be carefully and strictly limited to ensure its use does not compromise LEP rights.</p> <p>This recommendation should be amended to reflect a strict reference and priority for use of in-person interpreters in court proceedings. The phrase, "... but courts may consider the use of remote interpreting where it is appropriate and advantageous for a particular proceeding" is vague; it is unclear what "appropriate and advantageous" means. This phrase creates a loophole you can drive a truck through, rendering the preference for in-person interpreters meaningless.</p> <p>Suggestion for revised recommendation:</p> <p><i>The use of in-person, certified and registered court interpreters is preferred for court proceedings and court-ordered/court-operated events. ,but courts may consider the use of remote interpreting where it is appropriate and advantageous for a particular proceeding.</i></p>	Recommendation No. 12 (former No. 11) has been revised.

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	The following recommendations (12 & 13) and Appendix B address the use of remote interpreting and it is thus unnecessary to include the language that is stricken above.	
California Rural Legal Assistance, Inc. (Position = AM)	<p><b>Recommendations 11 and 12: Use of remote interpreting in judicial proceedings.</b> We cautiously support the use of remote interpreting (RI) technology in judicial proceedings, particularly when it is impossible to find a qualified interpreter able to attend proceedings in person. An LEP individual would benefit from the use of a qualified interpreter through RI technology if – as may frequently be the case for underserved languages – the alternative is having no interpreter at all or excessively delaying proceedings until an in-person interpreter can be provided.</p> <p>Our support for the use of RI comes with reservations, however, as we have heard comments from indigenous language speakers and indigenous interpreters that some indigenous individuals’ cultural background and lack of familiarity with technology would render RI a far less effective means of communication for them than for an average LEP court user. Nonetheless, our current position is that RI, judiciously employed, could be a powerful tool in ensuring language access for speakers of indigenous and other underserved languages.</p> <p>The Plan should use clearer language regarding when RI is allowable, specifying that RI should only be used if an in-person interpreter is not available. The Plan could call for the creation and use of a form or list of steps similar the INT-120 form, to be used prior to employing RI, to certify that a qualified in-person interpreter is unavailable. Alternatively, the Plan could incorporate those steps into Appendix B, as</p>	Recommendations No. 12 (former No. 11) and No. 13 (former No. 12) and the appendices they incorporate have been modified to provide more clarity related to standards and prerequisites which must be met along with factors which must be considered when a court provides interpreting services remotely.

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	additional necessary factors and considerations for RI.	
Indigenous Language Interpreters and Community Organizations (Position = AM)	<b>Recommendation 12.</b> Remote interpreting in indigenous languages presents many problems because it does not allow for a full in-person interaction between the interpreter and the individual. This interaction contains important cultural information that cannot easily be conveyed by video, and is impossible to convey by telephone. It is <u>always</u> preferable to have an in-person interpreter for an indigenous language speaker. However, we understand that there are currently not enough qualified indigenous language interpreters to meet the needs of all indigenous language court users. We recommend that the Plan require courts only use remote interpreting technology once a diligent search for an in-person interpreter has failed.	The plan requires full and meaningful access for the court user. In the case of certain LEP individuals, that may mean that remote interpreting is more, or less appropriate, or should be more carefully restricted to certain types of proceedings, such as continuances.  As CRLA indicated in its comments, there will be times and languages for which no interpreter exists anywhere in the state, or even the country, and remote interpreting may be the best, and only way, to provide access for a court user.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 12. Rather than stating that courts should “consider” factors in Appendix B before using remote interpreting in the courtroom, this recommendation should refer courts to required factors that must be met before using remote interpreting. Appendix B should provide required steps and circumstances that clearly define when VRI is and is not appropriate.	Recommendation No. 13 (former No. 12) has been revised.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 12*] The report and recommendations do not mention, and thus appear to intentionally ignore, the very successful experiences of video remote interpreting for American Sign Language in recent years. The use of VRI was piloted in several courts and, after demonstrating success, has expanded to many courts. Rather than throwing restrictions over a new technology, however reasonable the factors listed, the recommendation should encourage pilot programs to find out when it works best and when it does not.	The JWG has considered, extensively, the successes of VRI with American Sign Language which is ongoing in California’s courts and in fact has adapted many of the guidelines for VRI use from the ASL guidelines. The JWG has included additional language in the Plan describing the American Sign Language Interpreting pilot and which further established that remote interpretation can be an effective method of providing full and meaningful language access to courtroom proceedings for those who do not speak, (hear), or understand spoken English.

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California Rural Legal Assistance, Inc. (Position = AM)	<b>Recommendation 13: Use of video, enhanced audio, and telephone interpreting.</b> The Plan currently states that courts should “strive to provide” video plus enhanced audio interpretation as opposed to relying on telephonic interpretation. Because of the near unanimous complaints we have heard among indigenous language interpreters and indigenous community members regarding the limited effectiveness of interpretation by telephone, we recommend that the Plan adopt an even stronger policy against this practice. The words “strive to” should be eliminated from Recommendation 13 so that the Plan requires the use of video, used in conjunction with enhanced audio equipment, whenever RI is provided.	With respect to Recommendation No. 15 (former No. 13) The JWG considered language around the use of video vs. audio remote interpreting, and found it critical to allow courts flexibility in dealing with technological limitations which may exist in their area, or in the area of the interpreter providing service.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 13. This recommendation should reference another Appendix to include mandatory minimum technology that must be used for courtroom interpretation.	Interim descriptive technology related guidelines are provided, and incorporated at Appendix D. A new Recommendation No. 14 requires the Implementation Task Force to establish minimum technology requirements.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 13*] This is an example of the perfect pushing aside the adequate. The recommendation should instead recommend pilot projects or other efforts to find out when use of audio is adequate and when it is not. See, for example, the recent project funded by SJI for NCSC and CPPS to establish a national VRI service. It is worthy to note that many lawyers are regularly opting for audio appearances at law and motion hearings or other proceedings. The decision to do so reflects a balancing of effectiveness and cost that is equally relevant to interpreting. As the quality of video conferencing improves, there are now options for video appearances. It will be relevant to observe which form is preferred by litigants in which types of proceedings.	A new Recommendation, No. 16, has been added to the plan proposing a Judicial Council pilot project in conjunction with the Tactical Plan for Technology 2014-2016. Additionally, language has been included clarifying that courts need not wait for pilot results in order to implement remote interpreting.

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California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 14. CFI is open to the idea of having a centralized hub where certified and registered staff interpreters are available to courts statewide to provide language access using remote interpreting, provided adequate equipment is used, and provided that VRI is appropriately limited for events outside of courtrooms and in short, non-complex proceedings only where competent language access would otherwise be impossible.	The JWG believes that the Implementation Task Force, or any entity put in charge of running any of the pilots suggested in this plan, should determine the parameters and design of each relevant pilot, including what kinds of courtroom or non-courtroom language access might be achieved through a centralized pool of interpreters.  Note that former Recommendation No. 14 is now No. 17.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>[*Recommendation No. 14*] This may be easier to implement or pilot with less union resistance if we started with lower frequency languages that are intermittent employees or independent contractors and not regular employees. For example, if a county in Northern California wanted a Russian interpreter and the only way they could get one was to fly them up, the Russian interpreter could go to their local courthouse and appear in Northern California via VRI – thus saving the state travel costs. Also, the appearance may end up being only ½ day pay instead of 1 day +.</p> <p>Alternatively, it could be set up that if the court could not get a certified/registered interpreter, then VRI could be used. This demonstrates to the union that we are “protecting” their employees by not using non-certified, non-registered interpreters to provide the services.</p>	<p>The recommendation has been revised to remove the reference to high frequency languages.</p> <p>Note that former Recommendation No. 14 is now No. 17.</p>
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>[*Recommendation No. 15*] Many courts may already have short videos for orientation in languages for traffic first appearance/arraignments or some other proceedings.</p> <p>There was a Self-Help Strategic Planning meeting at the Judicial Branch in 2012. This was one of the issues raised. The Judicial Branch website has increased the number of general</p>	<p>Recommendation No. 18 (former No. 15) and the issue description providing background to this recommendation have been revised to indicate that these videos already exist and efforts should be continued.</p>

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	<p>legal information videos which we can post on our website, but not yet in other languages.</p> <p>How to:                      Mediation videos                      Traffic arraignment video                      Small claims video                      Knowledge innovation</p>	
<p>California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair                      (Position = AM)</p>	<p>Recommendations 16-23—Add recommendation in this section.</p> <p>This section pertains to considerations when appointing an interpreter. Although the discussion preceding these recommendations briefly mentions good cause findings and procedures, the need to comply with these steps is not reflected in the recommendations.</p> <p>The same good cause and qualification rules that apply in criminal proceedings should be adopted in civil proceedings, as is suggested by recommendations 9, 70 and 71. We recommend adding a recommendation at the beginning of this section to clarify conditions that must be met before appointing a non-certified or non-registered interpreter.</p> <p>Suggested additional recommendation to precede recommendation 16:</p> <p>Courts will only appoint a non-certified, non-registered interpreter to interpret in a court proceedings when:                      1) no certified or registered interpreter is available;                      2) a finding of good cause is made on the record and other diligent search and qualification procedures have been followed; and                      3) the judge in the proceeding determines the individual is</p>	<p>Note that these recommendations have been renumbered and reorganized. Former Recommendation No. 16 is now No. 22; former Recommendation No. 17 has been deleted; former Recommendation No. 18 is now No. 23; former Recommendation No. 19 is now No. 24; former Recommendation No. 20 is now No. 19; former Recommendation No. 21 is now No. 20; former Recommendation No. 22 has been deleted and combined with Recommendation No. 50; former Recommendation No. 23 is now No. 21.</p> <p>Re. Addition of New Recommendation:                      The suggested recommendation is already addressed by Recommendations No. 9, 19 (former No. 20), and 70 (former No. 71).</p>

**Draft Strategic Plan for Language Access in the California Courts**

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<b>Goal II: Provide Language Access Services in All Judicial Proceedings</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	provisionally qualified.	
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 16. This recommendation should be reworded to state this more clearly as a prohibition. Replace, “must avoid appointing” to “shall not appoint.”	The JWG agrees and the recommendation (now No. 22) has been revised.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	<p>Recommendation 17. This recommendation is highly problematic for a number of reasons.</p> <p>a. It is highly unlikely that family members or friends have the requisite skills, knowledge and proficiency in two languages to be qualified to interpret in any court proceeding.</p> <p>b. Family members and friends have a conflict of interest and cannot be relied upon to be impartial. Using them as interpreters could impact a judge’s ability to determine the facts or fairly adjudicate a matter.</p> <p>c. The same reasoning for not appointing opposing parties and others cited in recommendation 16 applies to family members and friends.</p> <p>d. Using family members and friends to interpret violates the regional MOU provisions that only bargaining unit members (certified and registered staff interpreters) may perform bargaining unit work.</p> <p>We recommend revising this recommendation to prohibit use of an LEP court user’s family members or friends to interpret in court proceedings, as follows:</p> <p><i>17. Family members or friends of the LEP court user will not be appointed to interpret for courtroom proceedings. This recommendation does not prohibit family members and friends of an LEP court user from providing informal assistance in</i></p>	Former Recommendation No. 17 has been deleted.

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<b>Goal II: Provide Language Access Services in All Judicial Proceedings</b>		
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	<i>order to determine the language needed or to inform the court user of a continuance or other basic instructions related to their matter.</i>	
41 Legal Services and Community Organizations (Position = AM)	17. [ <b>*Proposed Language*</b> ] Family members and friends of the LEP court user may be appointed for courtroom proceedings <u>only if</u> : a) they meet the provisional qualification requirements, (b) an admonition regarding real or perceived conflicts of interest is provided, (c) the court informs the litigants that language services and interpreters are available at no cost to the litigant, and (d) all parties knowingly and voluntarily consent to that person as the interpreter.	Former Recommendation No. 17 has been deleted.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 17*] In light of the recommendation regarding qualification, it would be useful to say all requests must go through the interpreter office, and provisional qualifications must be prepared for review by the office. A non-interpreter should be used only for a continuance in order to obtain a certified/registered/provisionally qualified interpreter. Note: There may need to be an exception for Protective Order cases.  What admonition? For consistency, should one be drafted for use by all judicial officers? Should this be done at the local or state level?	Former Recommendation No. 17 has been deleted.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 18. We agree with the recommendation to prohibit the use of minors to interpret for their LEP family members.	Recommendation No. 23 (former No. 18) has been revised to clarify no minors, not just minor children of the LEP court users, can be appointed to interpret in court proceedings or court-ordered, court-operated events.
41 Legal Services and Community Organizations (Position = AM)	Regarding Recommendation 18, courts must be instructed that minors, regardless of their relation to the LEP litigant, should not be used as interpreters in courtroom proceedings	The JWG agrees. Recommendation No. 23 (former No. 18) has been revised to clarify that no minors, not just minor children of the LEP court users, can be appointed



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	<p>under <i>any</i> circumstances. The use of a minor as an interpreter exacerbates concerns regarding competency, confidentiality, and conflicts of interest ...</p> <p>18. [<b>*Proposed Language*</b>] Minors will not be appointed to interpret in neither courtroom proceeding nor court-appointed, court-operated or court-managed proceeding.</p>	to interpret in court proceedings or court-ordered, court-operated events.
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 18*] Need judicial education/ethics training on proper use of interpreters at a state level. Currently, new judges receive some information about working with interpreters at new judge orientation. Recommend that refresher training be included as part of the ethics training.</p>	Recommendation No. 50 and Goal 6 generally, address the need for and content of ongoing judicial branch training.
<p>California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)</p>	<p>Recommendation 19. This recommendation appears to give significant and inappropriate discretion to courts to use of bilingual staff to interpret in courtroom proceedings. This is contrary to the overall goals of the LAP, and contrary to other recommendations. As written, this recommendation will create confusion and blur lines that need to be clear with respect to who is qualified and competent to interpret in court proceedings. This recommendation is problematic for the following reasons:</p> <p>a. Bilingual staff are not tested for the requisite skills, knowledge and proficiency in two languages to interpret in court proceedings (unless they are also certified or registered court interpreters).</p> <p>b. As acknowledged in the discussion of this section, and reported in public hearings, use of bilingual staff presents problems related to impartiality, and can become a convenient substitute for hiring needed, fully qualified interpreters.</p> <p>c. Using bilingual staff in court proceedings violates the</p>	The JWG agrees. Recommendation No. 24 (former No.19) has been revised to include the suggested “exigent circumstances” language. The requested addition of good cause finding was not added because it is already part of the provisional qualification requirements.

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	<p>regional MOUs that provide only bargaining unit members (certified and registered staff interpreters) may perform bargaining unit work and that contracting out will follow G.C. 71802. It also may violate G.C. 71802(d) of the Interpreter Act that requires courts to follow good cause and qualification rules adopted pursuant to G.C. 68561 before appointing any non-certified, or non-registered interpreters.</p> <p>We recommend revision of this recommendation as follows:</p> <p><i>19. Bilingual staff will not be appointed to interpret in courtroom proceedings except in extraordinary circumstances; if the court does appoint bilingual staff, the bilingual staff person must meet all the provisional qualification requirements, and the court must find good cause in accordance with Rule of Court 2.893.</i></p>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[* Recommendation No. 19*] Agreed. It should be avoided.</p>	<p>No response required.</p>
<p>California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)</p>	<p>Recommendation 20. This recommendation should be reviewed and revised to reference AB2370 (Chau) which was signed by the governor and will become law in January 2015.</p>	<p>The JWG agrees and Recommendation No. 19 (former No. 20) has been revised to reference amended Government Code section 68561, specifically subsections (g) and (f), effective January 1, 2015.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 20*] Recommend each trial court centralize process of administering and filing the interpreter oath with the interpreter office. Recommend sanctions for those who misrepresent their qualifications. Interpreters who have been certified/registered in multiple languages currently do not have to renew in all languages. For example a certified Spanish interpreter who was once registered in Italian will continue to be registered in both languages. Recommend that the Judicial</p>	<p>Recommendation No. 19 (former No. 20) has been revised to reference amended Government Code section 68561, specifically subsections (g) and (f), effective January 1, 2015.</p>

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	Council implement a renewal process that requires interpreters to document interpretations in all certified/registered languages, and requires the interpreter to list the languages they are renewing the certification/registration for.	
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 21*] Recommend implementing better automation to manage regional coordination.	The detail of how to expand regional coordination and improve efficiencies is more appropriate for the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.
Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)	Recommendation 22 – Need clarity regarding when the court should provide interpreters and when the justice partners have responsibility to provide the interpreter.	Former Recommendation No. 22 has been deleted and merged into Recommendation No. 50, addressing judicial branch training.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 22. A portion of this recommendation needs clarification or examples. As written, the intent of the recommendation is unclear: [...] and identifying situations where justice partners have the responsibility or capacity to provide additional certified or registered interpreters for their clients or witnesses.	Former Recommendation No. 22 has been deleted and merged into Recommendation No. 50, addressing judicial branch training.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 22*] The interpreter office should make every effort to utilize team interpreting for lengthy proceedings where the nature of the testimony or extent of interpreting needed suggests interpreting will be even more difficult than usual. It is not clear team interpreting is always necessary, therefore some effort should be made to identify when it may not be necessary and when it should be used. Recommend education and stricter guidelines from the Judicial Council regarding the best practice of team interpreting. A culture of resistance to this practice remains prevalent among some interpreters and judicial officers.  Recommend additional education about the legal requirement	Former Recommendation No. 22 has been deleted and merged into Recommendation 50, addressing judicial branch training.

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	on the use of interpreters where multiple parties are involved.	
41 Legal Services and Community Organizations (Position = AM)	<p><b>Regarding Recommendations 22 and 23, it is essential that the LAP should make explicit that justice partners are not responsible for providing interpretation or language services to litigants.</b> This obligation lies with the courts under both state and federal law. It is, as we articulated above, a key, core court function. On the other hand, we do recognize that there are instances where justice partners participate in aspects of coordination, recruitment, training, and identification of appropriate interpreters and translation services.</p> <p>We suggest that the subcategories of this Goal be reorganized. We recommend the following subcategories:</p> <ul style="list-style-type: none"> <li>a) Interpreters in Courtroom Proceedings (including the use of technology);</li> <li>b) Training Regarding the Appointment of Interpreters;</li> <li>c) Recommended Processes for Providing Interpreters.</li> </ul>	<p>Recommendations Nos. 22 and 23: Former Recommendation No. 22 has been deleted and merged into Recommendation No. 50, addressing judicial branch training. As to Recommendation No. 21 (former No. 23), the JWG agrees and the recommendation has been revised and reference to justice partners deleted.</p> <p>Reorganization of the subcategories: The recommendations have been reorganized to more adequately follow the process for appointment of interpreters.</p>
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 23. See 20 above. This section again references “justice partners who will be providing interpreters.” This is unclear and also raises questions about compliance with the Interpreter Act.	Recommendation No. 21 (former No. 23) has been revised and reference to justice partners deleted.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 23*] CRIS regularly reviews interpreter use and makes recommendations/modifications on staffing to maximize use of interpreters. Not sure what justice partner may be providing “interpreters.” Most do not have certified/registered staff – so does this refer to bilingual staff or some other level of interpreter?	Recommendation No. 21 (former No. 23) has been revised and reference to justice partners deleted.

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Superior Court of Placer County, Jake Chatters, Court Executive Officer (Position = AM)	Bi-lingual staff discussion (page 51 [*p. 48 of 7/29/14 draft*]) – The narrative of the report makes a statement that bi-lingual staff should receive a higher salary. We would suggest that this language be softened to encourage the evaluation of whether staff in a particular position should receive higher pay if they are bi-lingual.	Recommendation No. 47 establishes the minimum proficiency level that should be required before staff are considered to be bilingual, and therefore eligible (at the court’s discretion) for a possible bilingual premium if they meet their court’s requirements for official classification as bilingual staff.
41 Legal Services and Community Organizations (Position = AM)	All recommendations in Goal III should be moved to Phase I.  [*See below for suggested changes for each individual recommendation.*]	The JWG disagrees. Currently, 47 of the 75 recommendations in the Language Access Plan are included in Phase 1. Implementation of the Plan will require a significant amount of time and resources, and, although the plan recognizes all recommendations are important to achieve comprehensive language access, it is unrealistic to overburden the courts in phase 1.  In addition, as provided for in the description of the Plan’s timeline for phases, every recommendation in the plan should be put in place as soon as resources are available and necessary actions can be taken. Further, the plan allows for the Implementation Task Force to determine if the phase-in should be modified after further analysis.
Indigenous Language Interpreters and Community Organizations (Position = AM)	<b>Recommendation 24.</b> We strongly support the designation of a language access coordinator for each county court. It is essential that every court have a person in charge of coordinating language services. That person should be trained in the unique needs of indigenous language speakers, including the diversity of indigenous languages and how to identify the correct interpreter.	Training issues for all court staff, including language access coordinators, are addressed under Goal 6.
41 Legal Services and Community Organizations	24. [* <b>Proposed Language*</b> ] The court in each county will designate a person that serves as a language access	While every court must identify a language access coordinator, the JWG does not agree that every court

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(Position = AM)	<p>coordinator for court staff, judicial officers, and recipients of the court’s services. The person must be able to describe the court’s language access policy and know where to access the court’s multilingual written materials to disseminate them as needed. This person must also be well versed in how to use language line and other interpretation mechanisms, and in how to help facilitate an interpreter for court staff and judicial officers. This person will be designated the point person to help court staff provide interpretive services to LEP litigants at all points of contact, both inside and outside courtroom proceedings.</p>	<p>must define the role in the same way. However, recommendation No. 25 (former No. 24) has been revised to include additional detail.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 24*] Recommend contact information to the designated language access office be clearly posted at public facing points of contact. It is unreasonable to think there is one person who will know every service a court provides in a large court with multiple locations. Identifying a person in each branch court, and one who knows who to ask about a service, would meet the need implied by this recommendation.</p>	<p>It is the intent of the JWG that local courts have flexibility in determining how to best implement this recommendation and whether one centralized office is sufficient, or whether, in multi-location courts, additional designated staff is necessary.</p>
<p>California State Bar’s Standing Committee on the Delivery of Legal Services (Position = AM)</p>	<p>As acknowledged by the plan, the needs of LEP litigants extend to all points of contact. We suggest that for the sake of uniformity, Recommendation 25 be modified to give more direction to courts about which points of contact are “critical” for LEP users. For example, critical points of contact should include clerk’s offices, self-help centers, family law facilitator’s offices, and areas where information on fee waivers would be accessed. The development of written protocols or procedures by all courts will help ensure LEP litigants have language access (Recommendation 28) at all points of contact. Also, SCDLS supports the plan’s encouragement of the hiring of bilingual staff.</p>	<p>The JWG appreciates the suggestion and determined that additional level of detail regarding what constitutes critical points of contact for LEP court users is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>

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41 Legal Services and Community Organizations (Position = AM)	25. <b>[*Proposed Language*]</b> Courts will have qualified bilingual staff available at the clerk’s office, filing window, information counters, intake or filing offices, cashiers, records rooms, <i>pro se</i> clinics, family law facilitator and other self help centers, and other public contact locations. At least one language spoken by the bilingual staff at each public contact location will be one of the top five languages spoken in the court’s community. The minimum level of qualification for the designation of bilingual staff member should be at least Level 3 on the Interagency Language Roundtable Skill Level descriptions for Listening and Speaking. Bilingual staff members designated for use as interpreters should be able to interpret at a skill level of at least Level 3 on the ILR scale for interpretation performance. As defined on the ILR website, a Level 3 interpreter is “[a]ble to interpret consistently in the mode (simultaneous, consecutive, and sight) required by the setting, provide renditions of informal as well as some colloquial and formal speech with adequate accuracy, and normally meet unpredictable complications successfully. Can convey many nuances, cultural allusions, and idioms, though expression may not always reflect target language conventions. Adequate delivery, with pleasant voice quality. Hesitations, repetitions or corrections may be noticeable but do not hinder successful communication of the message. Can handle some specialized subject matter with preparation. Performance reflects high standards of professional conduct and ethics.”	<p>The level of detail suggested in the proposed language is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p> <p>With regard to the minimum level of qualification for the designation of bilingual staff member, the JWG believes that the minimum level as currently addressed in the plan under Recommendation No. 47 is appropriate. The plan, as provided in Recommendation No. 48, also recognizes that certain points of contact may require a higher level of proficiency than the minimum recommended level. The JWG determined that additional level of detail regarding what constitutes critical points of contact for LEP court users, and the corresponding appropriate qualifications for court staff, is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>
Superior Court of Orange County,	[*Recommendation No. 25*] Recommend that the language	The JWG recognizes the challenges that the

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Alan Carlson, Court Executive Officer (Position = AM)	access office designee conduct a thorough walk-through of points of contact to document current practice and make recommendations as needed. It is obviously ideal to have bilingual staff at key points of contact. However, this is not practical for most courts and for the less frequently spoken languages. In a county with multiple common languages, either staff would have to be multi-lingual, or there would need to be several staff, each bilingual in a different language. Obviously, this is not possible in most courts, particularly in small courts. Other options need to be identified, either in the recommendation and called for as part of implementation.	commentator identifies, and Recommendation No. 26 (former No. 25) states that qualified bilingual staff should be provided whenever possible.
41 Legal Services and Community Organizations (Position = AM)	26. [ <b>*Proposed Language*</b> ] All court staff that engage with the public shall be responsible for identifying the need for language services. At the point of contact, the court staff shall notify the court user of their right to an interpreter and also provide him/her with brochures, instructions, or other information in the appropriate language. Court staff should also have access to language assistance tools, such as translated materials and resources, as well as multi-language glossaries. If a court user speaks a language other than English and the court staff does not speak that language, the court staff will use a language identification card to determine the court user’s primary language and particular dialect, and any other languages she/he may speak fluently. If the court staff is not able to determine the court user’s primary language, the court staff will use a telephonic interpreter service to identify the court user’s language.  In each filing window and courtroom the court must	The level of detail provided in the proposed language is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.



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	<p>prominently display “I Speak” posters. This display will give court staff the ability to easily identify the LEP individual’s language. In addition, at each location, brochures explaining language services, which list dozens of other languages, must be available allowing the LEP individual to point to their language to identify it for the court staff.</p> <p>The court should have “I Speak” cards readily available for LEP litigants to pick up at the clerk’s office. Handing them out to litigants will ensure that no matter where in the courthouse a litigant is, s/he will be able to inform court staff of the language the litigant speaks</p>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 26*] In the interest of consistency and not ‘reinventing the wheel,’ the recommendation should direct the Judicial Council to develop “I speak” cards for those languages for which they do not already exist.</p>	<p>I-Speak cards exist in a large number of languages. As resources permit, the JWG envisions that the Judicial Council, per new Recommendation No. 37, will in fact provide more I-Speak card translations for local court use.</p>
<p>Indigenous Language Interpreters and Community Organizations (Position = AM)</p>	<p><b>Recommendation 27.</b> We support the recruitment of bilingual staff persons to work in the courts. However, the courts should ensure that bilingual staff, particularly indigenous language speakers, are not used to interpret in the courtroom unless they are also trained and meet the necessary requirements to serve as interpreters. Indigenous language speaking staff at other agencies are often called on to serve as interpreters even when that is not a part of their job description and they have not received adequate training to interpret. This is something that the courts must avoid.</p>	<p>Recommendation No. 28 (former No. 27) addresses bilingual staff only, in their capacity as non-interpreter court staff, to provide assistance to LEP court users in their preferred language. The requirements for provisional qualification of interpreters where no certified or registered interpreter is available, continue apply to interpreted proceedings or events.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p><b>27. [*Proposed Language*]</b> Moving forward, the court should require bilingual ability for future court hiring for all positions involving public contact. These positions should require proficiency in languages commensurate with the</p>	<p>At this time, the JWG does not deem it feasible, on a statewide level, to require courts to hire bilingual staff for all positions involving public contact.</p>

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	<p>needs of the local communities.</p> <p>Courts should conduct outreach to educational providers in the community, such as local high schools, community colleges, and universities, to promote career opportunities available to bilingual individuals in the courts and thereby increase the bilingual applicant pool.</p>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 27*] See issues/questions under recommendation #47 Above [*see below*]. This recommendation, and others below, seek to impose upon trial courts an obligation to promote career opportunities and develop education associated with interpreting. While there is obviously a need to increase the number of people who can provide language assistance, it is not clear that it is an appropriate role of the court to go out and develop solutions to the shortage. The courts are not expected to do that for other professions, for example, attorneys or court reporters, so it is not clear they should do so for interpreters. A more productive approach would be to ask the Judicial Council to engage with the education world to alert them to the need and provide assistance regarding programs. The recommendation implies that courts should solve the problem on their own.</p>	<p>The JWG feels strongly that courts have an important role to play in encouraging their community members to contribute to the court system, and to increase the pool of qualified professionals, from attorneys to court staff to court interpreters.</p> <p>Courts, including judicial officers, are involved in community events to promote the judicial branch, encourage attorneys to volunteer as judges pro tem or settlement conference judges, encourage pro bono, etc. They participate in law school or local and state bar activities, and others. These are all concerted efforts by the branch to improve the administration of and access to justice.</p>
<p>California Rural Legal Assistance, Inc. (Position = AM)</p>	<p><b>Recommendation 28: Language services outside judicial proceedings when bilingual staff are not available.</b></p> <p>Recommendation 28 states that courts will develop protocols or procedures for providing language services outside judicial proceedings when bilingual staff persons are not available. This is an essential step for ensuring clerk’s office and self-help center access for indigenous language speakers, since as far as we know, no California court currently employs any bilingual indigenous language speaking staff. Recommendation 28 is currently placed in Phase II and should be moved to Phase I. Courts should start immediately outlining the procedures to be</p>	<p>The JWG disagrees. Currently, 47 of the 75 recommendations in the Language Access Plan are included in Phase 1. Implementation of the Plan will take a significant amount of time and resources, and, although the plan recognizes all recommendations are important to achieve comprehensive language access, it is unrealistic to overburden the courts in phase 1.</p> <p>In addition, as provided for in the description of the Plan’s timeline for phases, every recommendation in this plan should be put in place as soon as resources are</p>

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	followed for providing outside-the-courtroom access to indigenous language speakers. There is no benefit to waiting until policies for placement of bilingual staff have been developed and implemented, since current bilingual staffing will not be of assistance to indigenous language speakers.	available and necessary actions can be taken. Further, the plan allows for the Implementation Task Force to determine if the phase-in should be modified after further analysis.  Note that former No. 28 is now Recommendation No. 29.
41 Legal Services and Community Organizations (Position = AM)	<p>Recommendation 28 should be moved from Phase II to Phase I. This is a critical item that cannot wait to be implemented. The court has acknowledged that there is not sufficient bilingual staff to accommodate the vast array of languages spoken by California’s LEP population. As such, having in place a protocol on what to do when a bilingual staff is unavailable is critical.</p> <p>28. <b>[*Proposed Language*]</b> Once court staff determines the LEP language and that LEP services are needed, the court must utilize the Department of Justice’s hierarchy of language services to provide interpretive services outside the courtroom setting. In accordance with this hierarchy:</p> <ul style="list-style-type: none"> <li>- The first choice is always to use bilingual staff to provide services directly in the preferred language.</li> <li>- If bilingual staff is unavailable at a particular location, court staff from another location should be brought in to assist as a second choice.</li> <li>- While the court must strive to provide in person interpretation, the third choice is to use VRI to draw on interpreters from other courts.</li> </ul>	<p>Note that former No. 28 is now Recommendation No. 29.</p> <p>Move to Phase 1: The JWG disagrees. Currently, 47 of the 75 recommendations in the Language Access Plan are included in Phase 1. Implementation of the Plan will take a significant amount of time and resources, and, although the plan recognizes all recommendations are important to achieve comprehensive language access, it is unrealistic to overburden the courts in phase 1.</p> <p>In addition, as provided for in the description of the Plan’s timeline for phases, every recommendation in this plan should be put in place as soon as resources are available and necessary actions can be taken. Further, the plan allows for the Implementation Task Force to determine if the phase-in should be modified after further analysis.</p> <p>Proposed language: The level of detail provided in the proposed language is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>

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<b>Goal III: Provide Language Access Services at all Points of Contact Outside Judicial Proceedings</b>		
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	<ul style="list-style-type: none"> <li>- If all the options above are exhausted, the fourth choice is to use a <i>qualified</i> volunteer.</li> <li>- Finally, if all other options are unavailable, telephonic or language line service may be used as the last resort. The minimum level of qualification for the designation of telephonic interpreter should be at least Level 3 on the Interagency Language Roundtable Skill Level descriptions for Interpretation Performance. See description in Recommendation 25.</li> </ul>	
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 28*] Recommend regular reminders and training for court staff.	Ongoing training of court staff is addressed in Recommendation No. 50.  Note that former No. 28 is now Recommendation No. 29.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 29*] Recommend building stakeholder buy-in from all represented court staff.	The JWG agrees with the commentator and recommends that courts work with appropriate staff to discuss what resources and tools may be necessary to implement the recommendations contained in the Language Access Plan.  Note that former No. 29 is now Recommendation No. 30.
41 Legal Services and Community Organizations (Position = AM)	30. [ <b>*Proposed Language*</b> ] Before implementing the use of remote interpreter services outside the courtroom through a pilot program, courts and the Judicial Council should develop a well-designed protocol, consistent with Recommendation 28, and all court staff should receive proper training. The pilot should be limited in scope and focused on a specific situation such as a self-help center, taking into consideration surrounding noise, limited space, and privacy issues.	Proposed language: The details of the pilot program recommended are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.  Timeline: The JWG disagrees with moving Recommendation No.

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	<p>Recommendation 30 should be moved to Phase I because it will help the court draw down the excess funding. This is key to securing more funding for future access to court services including language access services.</p>	<p>31 (former No. 30) to Phase 1. Currently, 47 of the 75 recommendations in the Language Access Plan are included in Phase 1. Implementation of the Language Access Plan will take a significant amount of time and resources, and, although the plan recognizes all recommendations are important to achieve comprehensive language access, it is unrealistic to overburden the courts in phase 1.</p> <p>In addition, as provided for in the description of the Plan’s timeline for phases, every recommendation in this plan should be put in place as soon as resources are available and necessary actions can be taken. Further, the plan allows for the Implementation Task Force to determine if the phase-in should be modified after further analysis.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 30*] This is a great idea. To the extent that the centralized bank of bilingual professionals are court employees (interpreters and bilingual staff) the court would optimize resources and reduce third party fee-for-service costs.</p>	<p>No response required.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>31. [<b>*Proposed Language*</b>] Before initiating an inter-court pilot to utilize technology for workshops, training, or information nights, courts must develop proper protocol and training for all court staff. The pilot should not expand to cover different court services until the program can be evaluated and revised to address issues that arise.</p> <p>Recommendation 31 should be moved to Phase I because it will help the court draw down the excess funding.</p>	<p>Proposed language: The details of the pilot program recommended are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p> <p>Timeline: The JWG disagrees with moving Recommendation No. 31 (former No. 30) to Phase 1. Currently, 47 of the 75 recommendations in the Language Access Plan are included in Phase 1. Implementation of the Language</p>

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		<p>Access Plan will take a significant amount of time and resources, and, although the plan recognizes all recommendations are important to achieve comprehensive language access, it is unrealistic to overburden the courts in phase 1.</p> <p>In addition, as provided for in the description of the Plan’s timeline for phases, every recommendation in this plan should be put in place as soon as resources are available and necessary actions can be taken. Further, the plan allows for the Implementation Task Force to determine if the phase-in should be modified after further analysis.</p>
41 Legal Services and Community Organizations (Position = AM)	32. <b>[*Proposed Language*]</b> Courts must ensure that court-appointed professionals, such as psychologists, mediators, social workers, and guardians, can provide linguistically accessible services. As with court staff that engage with the public, courts should prioritize hiring professionals with bilingual ability and at a minimum use qualified interpreters so LEP litigants can properly access these services to the same degree as English speakers	The JWG has revised the language of Recommendation No. 33 (former No. 32).
Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer (Position = AM)	[*Recommendation No. 32*] Not clear how this recommendation can feasibly be implemented. How are courts to ensure equivalent services? By audit? Self-report?	The JWG has revised the language of Recommendation No. 33 (former No. 32).
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>[*Recommendation No. 32*] Orange County does provide interpreters for psych evaluations in jail during normal work hours. If after-work hours or off-site, the evaluator is advised to hire their own interpreter.</p> <p>There have been instances where we have sent an interpreter off site or after hours – for example: When the case is in</p>	No response required.

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	<p>alternate defense and the court is paying all the fees.</p> <p>We get a lot of questions about this process as well. Recent examples include a father being evaluated during business hours, off site, with short notice. The evaluator requested a Vietnamese interpreter and one was sent.</p> <p>If a court interpreter is not provided, the evaluators sometimes have a hard time getting an interpreter. The agencies may request a full-day rate for a two hour interview. CRIS uses their best judgment in covering these requests.</p> <p>Contracting with bilingual professionals would be great, but I'm not sure it is feasible – especially with the variety of languages and the limited hours that many evaluators are available for court work.</p> <p>If CRIS is to supply interpreters during business hours to travel to an outside facility for an evaluation other than the jail, this would increase work for coordinators and more interpreters (and coordinators) could be needed. For example, the court may authorize an interpreter for any service needed (investigation, visitation or any participation in services).</p>	
<p>California Rural Legal Assistance, Inc. (Position = AM)</p>	<p><b>Recommendation 33: Use of bilingual volunteers.</b> We strongly oppose the adoption of Recommendation 33 because the use of volunteers to provide language services has a disproportionate negative effect on indigenous language speakers' access to adequate language services. Our work with indigenous interpreters and indigenous language speakers throughout California has revealed that many agencies rely heavily on "volunteer" indigenous interpreters who are most often high school students without adequate training. In addition to providing unreliable language service to indigenous</p>	<p>The JWG recognizes that volunteers are often untrained and unqualified to interpret, and that the use of unpaid interpreters can eliminate incentives for pursuit of the interpreting profession. However, the JWG is also aware that volunteers have been an invaluable resource for courts to provide services to ever-increasing numbers of court users, especially LEP court users, accessing the courts at a time when budget cuts have significantly impaired the ability of courts to meet the demand for services. Recommendation No. 34 (former No. 33) is not</p>

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	language speakers, this practice undermines the efforts of indigenous interpreters to make a career out of professional-level interpreting. If public institutions continue to make use of unpaid indigenous interpreters, there will be no incentive for those with the necessary language skills to invest in training, and the current dearth of qualified and available indigenous interpreters will continue. Paying indigenous language interpreters fair compensation to provide language services outside the courtroom will help support the development of an indigenous interpreting profession that can provide the same level of service that speakers of Spanish and other languages already receive.	intended for volunteer interpreters in the courtroom. It is meant to address the needs at court services such as self-help centers and information kiosks that can't be fully met with existing staff. Internships can also provide an invaluable experience and exposure for would-be interpreters, court staff, and attorneys.
Indigenous Language Interpreters and Community Organizations (Position = AM)	<b>Recommendation 33.</b> We do not support this recommendation and believe it should be removed from the Plan. Volunteers should not be relied on to provide language services. Indigenous language interpreters have long been treated by many agencies and service providers as “second class interpreters,” and they are paid little or nothing for their services. The vast majority of indigenous interpreters are unable to dedicate themselves to interpreting full time (and to investing in ongoing training) in part because they receive such little pay. Allowing courts the possibility of using volunteer interpreters will have a disproportionate effect on indigenous language speakers and interpreters, because it will interfere with efforts to professionalize indigenous interpreting and make it a viable career option. Courts should not be permitted to engage indigenous interpreters (or any interpreters) without providing them fair compensation.	See response above.
41 Legal Services and Community Organizations (Position = AM)	33. [ <b>*Proposed Language*</b> ] Courts should only utilize qualified bilingual volunteers when no other alternatives are available, such as bilingual staff in person, staff brought in from another location, or interpreters via	See response above. In addition, Recommendation No. 34 (former No. 33) provides for appropriate training and supervision of volunteers.



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	VRI. Before making use of any volunteers, courts must conduct careful screening/testing of qualifications and provide extensive training of potential volunteers.	
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 33*] Justice Corps volunteers and interns would be great but require that our court hire additional staff to run the program, including determining whether the volunteers are qualified. The recommendation assumes volunteers are available. It is unlikely they are available in sufficient numbers to have much impact on the total need. Moreover, it is unlikely the unions will agree to very extensive use of volunteers.	Recommendation No. 34 (former No. 33) merely proposes that courts should consider, where appropriate, the use of bilingual volunteers. Where a court does not have the resources to properly supervise and train volunteers, a supply of volunteers, or even a need for them, courts are not required to use volunteers.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 34*] If information is available on our website in different languages, then a separate language access kiosk is not necessary. As to the reference to “top five” and “5 percent or more”, see response to recommendation 35 above [*see below*].	Not all LEP court users have access to the internet and to information on the web. Additionally, many courts do not have information on their websites. Recommendation No. 35 (former No. 34) provides for pilot programs to explore a variety of information delivery mechanisms to reach LEP court users. The JWG agrees that the reference to the number of languages in which information should be provided was inconsistent and lacked clarity or statewide applicability. The plan has been modified, including a clear standard definition of applicable language threshold, to ensure a consistent approach pending further research by the Implementation Task Force.
Superior Court of Placer County, Jake Chatters, Court Executive Officer (Position = AM)	Recommendation 35 (page 51) – The Working Group recommends providing information on language access services in the top five languages used in the County and any language that is spoke by more than 5% of the County. We would suggest rewording this recommendation to match the language used in Recommendations 39 and 42 (“court community’s top five languages or, if more appropriate, into any languages spoken by 5 percent or more of the population served by the	Former Recommendation No. 35 has been deleted and incorporated into Recommendation No. 5. The JWG agrees, however, that the reference to the number of languages in which information should be provided was inconsistent and lacked clarity or statewide applicability. The plan has been modified, including a clear standard definition of applicable language threshold, to ensure a consistent approach pending further research by the

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	court. At the minimum, all such materials should be available in English and Spanish.”).	Implementation Task Force.
41 Legal Services and Community Organizations (Position = AM)	<p>35. [<b>*Proposed Language*</b>] Courts must provide notice of the availability of language access services and related language access policies at all points of contact with the court in English, the top five languages spoken in that court’s county, and, if applicable, in every other language spoken by either five percent or more of the county’s population or 500 persons or more in a specific courthouse’s service area.</p> <p>Courts must provide visible signage indicating the litigant’s right to language services. This should be placed in all public areas and in each courtroom. Courts must post signs throughout the court that indicate “the court serves all people. It does not matter where you were born or what language you speak.”</p> <p>For each notice the court sends out to litigants, the court must include language that indicates the court’s obligation to provide free interpretation services. The notice should also include the LEP coordinator’s number as well as the LEP specific call-in numbers (described below).</p> <p>35.1(<i>new</i>) All bilingual staff must be tested through a standardized process before being instructed to utilize their language skills with court users. Such testing should include various levels designating oral and written proficiency. Staff shall be compensated accordingly with corresponding pay differentials. Utilization of language skills shall be made part of all job duties for staff with public contact.</p> <p>Qualified bilingual staff shall be designated on the court-wide phone list to be called upon to assist in appropriate situations. Guidelines and protocols shall be developed and trainings</p>	<p>Former Recommendation No. 35 has been deleted and incorporated into Recommendation No. 5.</p> <p>Translation: With regard to the applicable language threshold for translation of notices, the plan has been modified, including a clear standard definition to ensure a consistent approach pending further research by the Implementation Task Force.</p> <p>Signage: Addressed in Recommendation No. 42 (former No. 41).</p> <p>Content of the notice: The content proposed beyond what is already included in the plan is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p> <p>Timeline: Recommendation No. 5, which incorporates former No. 35, has been moved to Phase 1.</p> <p>New proposed recommendation: The JWG believes the proposed recommendation is not necessary. Recommendations Nos. 47 and 48 address the standardization of qualifications, testing, and training of bilingual staff.</p>

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	<p>provided to all staff.</p> <p>All bilingual staff shall be required to attend regular trainings regarding how to appropriately utilize their language skills with court users. The Office of Language Access shall develop standardized training curriculum and language resources, such as glossaries and other language-specific resources</p> <p>Recommendation 35 should be moved to Phase I because it is urgent and easy to implement but will have a tremendous impact on LEP litigants. For too long, litigants have been denied interpretive services. For this reason, it is key that litigants be properly informed of the courts’ language access services in order for LEP individuals to have true meaningful access to the courts. Additionally, Recommendation 35 is directly related to Recommendation 5.</p>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 35*] The reference to “top five” and “5 percent or more” seems overbroad. It is unclear whether the “top five” would include a language which is spoken by under 1% of the population in some counties. Maybe better to have one standard, such as any language spoken by more than 10%, or some reasonable level based on actual experience in counties. For example, the top five language requests in Orange in 2013 in criminal/traffic cases were:</p> <ul style="list-style-type: none"> <li>• Spanish 82.4%</li> <li>• Vietnamese 9.6%</li> <li>• Korean 1.9%</li> <li>• Farsi 0.8%</li> <li>• Mandarin 0.7%</li> </ul> <p>Only the top two languages involved more than 5% of need</p>	<p>Former Recommendation No. 35 has been deleted and incorporated into Recommendation No. 5. The JWG agrees, however, that the reference to the number of languages in which information should be provided was inconsistent and lacked clarity or statewide applicability. The plan has been modified, including a clear standard definition of applicable language threshold, to ensure a consistent approach pending further research by the Implementation Task Force.</p>

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	(a better measure than population), so preparing materials for the very low usage may not be cost effective, and might be better handled some other way.  Additional efforts will be required to comply with this depending on the final recommendation.	

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<b>Goal IV: Provide High Quality Multi-Lingual Translation and Signage</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Diana Barahona, Court Interpreter, California Federation of Interpreters (Position = N)	Regarding #36, Establishment of Translation Committee: The courts already employ many qualified translators on a full-time basis. To save money, I propose that the Translation Committee take advantage of this fact and request that qualified court interpreters volunteer to translate forms and signage into other languages.	The committee appreciates the recommendation that the translation committee (name TBD) should utilize court interpreter volunteers to translate forms and signage into other languages to save money. The translation committee will maximize existing resources at the local court level to secure quality translation of materials to other languages, and will secure additional resources where necessary to ensure expediency, quality control and standardization.
Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)	[*Recommendations No. 36 and 61*] Advisory Committees – 2 advisory committees are recommended – Implementation and Translation. Is the intent for these to be free standing advisory committees or sub committees of existing advisory committees and are they time limited or ongoing?	Recommendation No. 60 (former No. 61) states the Judicial Council will create a Language Access Implementation Task Force, which includes representatives of major stakeholders. The translation committee is likely to be ongoing.
Indigenous Language Interpreters and Community Organizations (Position = AM)	<b>Recommendation 36.</b> The development of glossaries should not be limited to certified languages, but should include indigenous languages as well, as these can serve as important training tools and reference materials for indigenous language interpreters.	The JWG agrees that glossaries can serve as important training tools and reference materials for all interpreters, in all languages. However, the development of glossaries requires significant resources and the JWG believes it is critical to target all certified languages first. The JWG will relay this comment to the Implementation Task Force for further study and evaluation regarding inclusion of other glossaries in the future.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 36*] Orange County already has a protocol for local translations. The translators are qualified court interpreter employees who receive premium pay for translating per the MOU. For larger jobs, an outside vendor is used.	No response required.
Indigenous Language Interpreters and Community Organizations (Position = AM)	<b>Recommendation 37.</b> In addition to creating and sharing informational and educational materials in writing, the courts should also develop and share informational and educational	The JWG appreciates this comment and the need in indigenous communities for information in formats other than writing. The creation of videos is expensive

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	videos in indigenous languages because, as noted above, written materials will not meet the needs of most low-literacy indigenous language speakers.	and time-consuming, so Recommendation No. 18 (Former No. 15) focuses on the state’s 8 top languages and additional languages by captioning, which does not address the concern of indigenous language speakers. The JWG will submit this comment to the Implementation Task Force for further research into feasibility.
Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)	Translations – There are several places that reference either the top 5 languages or languages spoken by 5% or more of the population. Is the intent to do whichever is greater? Some places say, whichever “is appropriate” (Recommendation 38) and others say “at least” (Recommendation 42). For example, if the top 5 languages total 40% of the population but there are 2 additional languages that more than 5% of the population speak, should the translations be done in all 7 languages? If there are no languages other than English that are spoken by 5% of the population, are translations done in the top 5 languages? If done at the state level, this is probably a non-issue since most common languages will be either the top 5 or 5% of some court’s population.	The JWG agrees that the reference to the number of languages in which information should be provided was inconsistent and lacked clarity or statewide applicability. The plan has been modified, including a clear standard definition of applicable language threshold, to ensure a consistent approach pending further research by the Implementation Task Force.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 38*] Determine where this has been done, and what signs may need to have created. Do signs need to be approved by Facilities? How often should the signs/languages be reviewed? The top five can change from year to year? Signs coming out of Facilities budget? As to the reference to “top five” and “5 percent or more”, see response to recommendation 35 above.	The questions posed by the commentator are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.  See response to former Recommendation No. 35 above re. the reference to the language thresholds for translation.
Superior Court of Placer County,	Recommendation 39 (page 57) – The Working Group	The JWG appreciates the suggestion and the challenges

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Jake Chatters, Court Executive Officer (Position = AM)	recommends providing sight and written translation of orders in all situations. We would suggest dividing this recommendation into one for sight translation and a second for written translation to better support implementation efforts. Striving to provide sight translation as part of Phase II of your implementation plan is a reasonable, if challenging, goal. As indicated in your Strategic Plan, the written translation of documents is substantially more complicated and therefore, may be more appropriately slated for Phase III.	that may be posed by Recommendation No. 40 (former No. 39), in particular the provision of written translations. However, as written, the recommendation merely provides a consideration of providing written translations. The minimum standard recommended addresses existing translations of Judicial Council forms that should not add to the courts’ burden.
Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)	[*Recommendation No. not stated; seems to relate to No. 39*] Include having the Judicial Council Staff develop cards in all 147 languages that state that the matter is being continued to request an interpreter and the continuance date, and, until interpreters are available in all subject areas, if the litigant is to bring someone, who is appropriate to act as an interpreter. In many cases the litigant can’t even understand when they are to return when the matter is continued to obtain an interpreter.	The detail suggested is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 39*] Sight translation is provided. Providing written translations of court orders would be labor intensive, requires a translator rather than an interpreter, and cannot generally be a generic form since court orders vary from person to person. Most Judicial Council forms do not have a translated version. See #36 above – would these forms fall under Judicial Council translation? If it’s a Judicial Council form, then shouldn’t the Judicial Council translate it?	The JWG appreciates the challenges that may be posed by Recommendation No. 40 (former No. 39), in particular the provision of written translations. However, as written, the recommendation merely provides a consideration of providing written translations. The minimum standard recommended addresses existing translations of Judicial Council forms that should not add to the courts’ burden.
California State Bar’s Standing Committee on the Delivery of Legal Services (Position = AM)	We support the plan’s recommendation for the multilanguage translation of critical Judicial Council forms and the development of signage to help LEP litigants physically navigate the courts. SCDLS suggests that the plan create a timeline for translation of crucial forms. We also suggest that the signage be translated as soon as practical for language access resources already being provided by courts.	The detail suggested is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.  Former Recommendation No. 42 has been deleted and incorporated into Recommendation No. 5.

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	Recommendation 42 should also be implemented for all language services already provided by courts.	
41 Legal Services and Community Organizations (Position = AM)	<p>We agree that the LAP should include the creation of the Translation Advisory Committee in Phase I of the implementation plan. However, given the necessity of informing court users of both their right to language access services and the information needed to obtain such services, such recommendations must absolutely be included in Phase I and not Phase II.</p> <p>This is especially true where the creation of a multi-lingual “tagline” has already been used in local courts.</p> <p>Furthermore, the creation of the Translation Advisory Committee and the statewide coordination of the multilingual translation of court forms and signage explaining court services, forms that implicate a litigant’s rights, duties, or privileges to their civil case, or forms explaining the availability of free language services must be provided <b>immediately</b> and not in Phase II as currently outlined.</p> <p>Below is proposed language to modify or replace the existing language in the LAP’s recommendations for Goal IV.</p> <p>39. Courts will provide sight translation of court orders and <i>must</i> provide written translation of an order to LEP litigants when the LEP litigant’s language is a language spoken by either at least five percent or more of the county’s population or at least 500 persons in a specific courthouse’s service area. Where the Judicial Council has already provided a translated version of any court form in a litigant’s preferred language (e.g. on the California Courts website), the court must provide that translated version of that form</p>	<p>Recommendation No. 36 is in Phase 1.</p> <p>Proposed language for Recommendation No. 40 (former No. 39): The detail suggested is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p> <p>Proposed new recommendation: The detail suggested is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>



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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>to the LEP litigant <i>even if</i> the litigant’s language is not one covered under the five percent or 500 persons threshold.</p> <p>39.1(<i>new</i>) Courts must identify a process by which to handle the submission of non-English forms submitted by LEP litigants. Courts must not outright reject such forms without providing alternative processes by which an LEP litigant can submit forms either in English or non-English language.</p>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 40*] Other than signage, I’m not sure what this means.</p>	<p>Recommendation No. 41 (former No. 40) addresses the redesign of courthouses to be more intuitive for court users, including LEP persons, to diminish the need for and reliance upon signage and maps for wayfinding.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 42*] See #38 above</p> <p>Determine where this has been done, and what signs may need to be created.</p> <p>Do signs need to be approved by Facilities? How often should the signs/languages be reviewed?</p> <p>The top five can change from year to year? Signs coming out of Facilities budget?</p> <p>As to the reference to “top five” and “5 percent or more”, see response to recommendation 35 above.</p>	<p>The questions posed are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p> <p>Re. the language threshold comment, see response to former Recommendation No. 35 above.</p>

**Draft Strategic Plan for Language Access in the California Courts**

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<b>Goal V: Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*From p. 61*] The notion that an “agreed-upon glossary of terms” can be developed is quite idealistic. One of the roles of the appellate courts is to tell us what terms mean when there is a disagreement. It might be more realistic to develop a glossary which indicates the different terms people might use in English and in another language, and what the differences in nuances are. It is not unusual to have interpreters disagree about which term to use, especially where there is no comparable word or concept in another language and culture.	By “an agreed-upon glossary of terms,” the JWG intends to include proposing different terms that may appropriately be used, and did not meant to imply that every term would have only one adequate translation.
California Rural Legal Assistance, Inc. (Position = AM)	<p><b>Recommendation 43: Standards for qualification of interpreters.</b> The Plan states that existing standards for qualifying court interpreters will remain in effect and will be regularly reviewed by the Court Interpreters Advisory Panel (CIAP). While current standards may be adequate to ensure the competency of interpreters in certified languages, indigenous language interpretation, for which there are no certification exams, is lacking any meaningful quality control. The fact that many indigenous language interpreters are only fluent in an indigenous language and Spanish (not English) creates additional challenges for ensuring high quality indigenous language interpreting. The majority of indigenous interpreters in the courts are not fluent enough in English to pass the oral proficiency exam required to become registered, and judges are ill-equipped to determine indigenous interpreters’ competency under the existing provisional qualification rules.</p> <p>The Judicial Council, the courts, and the CIAP should confront these challenges through collaboration with indigenous language interpreters. The Plan should direct the Judicial Council and the CIAP to form a special advisory committee or working group, including indigenous language interpreters and representatives of indigenous interpreter organizations, tasked</p>	The JWG appreciates the perspective presented and agrees that there are particular challenges presented regarding the quality of interpreters for languages for which there is no certification or registration offered, as well as for relay interpreters. The suggestions proposed, however, are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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	with the development of qualification standards for indigenous language interpreters in the courts. A collaboration among CRLA, the Legal Aid Association of California, and the Ventura and Santa Barbara County Superior Courts has already resulted in two highly productive meetings with interpreters and indigenous community organizations to discuss indigenous language access in the courts; this group could form the basis of such a working group or committee.	
Indigenous Language Interpreters and Community Organizations (Position = AM)	<b>Recommendation 43.</b> We agree that it is important for the courts to ensure that interpreters are qualified and competent. However, the courts and the Court Interpreters Advisory Panel (CIAP) must also consider the unique challenges in determining the qualifications and competency of indigenous language interpreters (for example, the wide variety of regional differences within languages, the lack of standardized written versions of indigenous languages, and the fact that many indigenous interpreters are not fluent in English and must work together in relay with Spanish-English interpreters). The Plan should require that the CIAP include as a member at least one indigenous language interpreter, and ideally, one for each of the major indigenous languages spoken in California. The indigenous language interpreters on the CIAP should consult with other indigenous interpreters, including the organizations collaborating on these comments, to gain insight and provide accurate representation. With the support and input of these interpreters and organizations, the CIAP should develop standards for qualifying indigenous language interpreters, both those who interpret from their indigenous language directly to English as well as those who interpret from their indigenous language to Spanish.	The JWG appreciates the perspective presented and agrees that there are particular challenges presented regarding the quality of interpreters for languages for which there is no certification or registration offered, as well as for relay interpreters. The suggestions proposed, however, are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.
41 Legal Services and Community Organizations	43. [ <b>*Proposed Language*</b> ] Courts and the Judicial Council should provide training and mentoring programs to prepare	The JWG appreciates the particular challenges presented regarding the quality of relay interpreters. The proposed

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(Position = AM)	<p>relay interpreters to meet the standards established. Many relay interpreters lack formal education and training and may require assistance in the form of ethics and other trainings and reference materials in the intermediate language.</p> <p>Courts should ensure that interpreters are competent in the language(s) in which they interpret. In addition to the existing standards for qualification, courts should establish a comprehensive system for credentialing or registering relay interpreters that includes prescreening, ethics training, an orientation program, continuing education, and a system to voir dire language services providers' qualifications in all settings for which they are used.</p>	<p>language, however, is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 43*]The Judicial Council should continue to oversee qualifying interpreters. Additionally, recommend that the Judicial Council background check and fingerprint all certified/registered interpreters to relieve each trial court of the cost, and also the interpreter of having to repeat the process in each court where they work. Often, contractors are used in multiple counties and each county conducts and pays for a background check. Also, recommend that the Judicial Council provide some sort of oversight for continuing certification that ensures that interpreters are still qualified.</p>	<p>The JWG appreciates the comment. This comment will be forwarded to the Implementation Task Force and/or the Court Interpreters Advisory Panel (CIAP) for further review.</p>
<p>Indigenous Language Interpreters and Community Organizations (Position = AM)</p>	<p><b>Recommendations 44 – 46.</b> It is essential for the court system to invest in training for indigenous language interpreters, and the Plan should include a specific mandate to do so. The vast majority of indigenous language interpreters only interpret occasionally and are unable, because of the expense of training, the lack of work (though not necessarily the lack of need for their services), and poor pay, to sustain a career as interpreters. Providing high-quality free or low-cost training is the first step</p>	<p>The JWG appreciates the perspective presented and agrees that there are particular challenges presented regarding the quality of interpreters for languages for which there is no certification or registration offered, as well as for relay interpreters. The suggestions proposed, however, are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	toward creating a more qualified and readily available group of indigenous interpreters. The Plan should direct the Judicial Council to collaborate with existing indigenous interpreters and interpreter organizations to develop a comprehensive free or low-cost interpreter training program to ensure there are sufficient qualified interpreters to meet the needs of currently underserved indigenous language speaking populations.	Re. directing the Judicial Council to collaborate with existing indigenous interpreters and interpreter organizations, Recommendation No. 45 already addresses such partnerships, and internship and mentorship opportunities with interpreter organizations.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	<p>[*Recommendation No. 45*] Mentoring programs are recommended in the plan as a recruitment method (recommendation 45). CFI agrees that mentoring programs should be implemented as a training and recruitment tool for individuals seriously preparing for certification and a career in interpreting. Participants should be selected and screened based on standardized criteria. They should receive formal training, and should have opportunities for observation and increasing levels of practice with careful supervision and feedback. Mentoring programs should not be used to fill basic language access needs in the court system or as a source of free labor. Language access services need to be of predictable quality and regularly available; mentoring and volunteer programs are not suited to provide the necessary level of reliability and service.</p> <p>In our experience, courts have not implemented appropriate training programs, but instead have sought to put “interns” to work as free labor covering in-court proceedings in civil matters, without appropriate training, mentoring and supervision by a certified interpreter. We are receptive to working with the courts to establish appropriate mentoring programs with the features described above, for the purpose of increasing the ability of prospective interpreters to become certified and increase the pool of qualified interpreters.</p>	The JWG appreciates the comment and the suggestion by CFI to collaborate with courts regarding mentoring programs.

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
41 Legal Services and Community Organizations (Position = AM)	45. <b>[*Proposed Language*]</b> The Judicial Council and the courts should work with interpreter organizations and educational providers (including community colleges and state universities) to examine ways to better prepare prospective interpreters to pass the credentialing exam. Once these strategies have been identified, the courts and Judicial Council will allocate the necessary resources to implementing the strategies. The Judicial Council and courts will: <ul style="list-style-type: none"> <li>- Create and make available standardized training materials to prepare individuals for the qualification exams.</li> <li>- Partner with community organizations and education providers to develop exam preparation courses/tests.</li> <li>- Create internship and mentorship opportunities in the courts and in related legal settings (such as work with legal services providers or other legal professionals) to help train and prepare prospective interpreters in all legal areas.</li> </ul>	The JWG believes existing Recommendations Nos. 45 and 46 already address the proposed language.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<b>[*Recommendation No.45*]</b> This is a good idea, but courts must consider the following: 1) Interns may not be allowed by union contracts, especially if the union feels that everything is unit work; 2) Time to oversee, schedule, background check, and provide feedback may become too labor intensive, especially in courts with staff reductions; and 3) If the court chooses to do background checks, there is a fee.	No response required.
California State Bar’s Standing Committee on the Delivery of Legal Services (Position = AM)	<b>[*Recommendations 45 and 46*]</b> SCDLS commends the courts and the Judicial Council’s commitment to recruit and train language access providers and to support the development of proficiency standards to ensure that language services are high quality. SCDLS agrees that both recruiting and training prospective interpreters are essential to help fulfill the demand for increased numbers of high quality interpreters in the years to come as the Language Access plan is implemented. We also	The JWG appreciates the support regarding these recommendations and suggestions proposed. However, the JWG believes the proposed additions are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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	<p>support Recommendation 45, which acknowledges the importance of courts and community partners to work together to examine strategies to help prospective interpreters pass the credentialing exam. However, beyond developing initial strategies, this recommendation does not address specifically how the courts and the Judicial Council can work with these partners, or the roles they should play to effectively carry out the strategies to ensure that prospective interpreters are able to prepare for and pass the credentialing exam. Furthermore, Recommendation 46, which generally encourages collaboration, does not specify how the Judicial Council and interpreter groups should collaborate to develop trainings for interpreters who interpret in civil cases and remotely. Recommendations 45 and 46 would be improved by including an actual action plan or process that will help ensure that the recommendations result in positive changes in the future. SCDSL feels that having a pre-determined structure (perhaps involving an official subcommittee, working group, development of court supported pilot projects or training programs) to institute the collaborated strategies on a statewide level would help with these efforts. Beyond collaboration, the recommendations should require the Judicial Council, courts and interested partners to develop specific project goals, objectives, activities, and perhaps an evaluation plan to help further improve and increase the number of highly trained and certified interpreters that are physically and remotely available to LEPs in California.</p>	
<p>California Rural Legal Assistance, Inc. (Position = AM)</p>	<p><b>Recommendations 45 and 46: Training for prospective interpreters to pass credentialing exams, interpret in civil cases, and interpret remotely.</b> Any standards developed for qualifying indigenous language interpreters should be supported by training programs that will ensure enough indigenous interpreters are able to meet those standards.</p>	<p>The JWG appreciates the perspective presented. The suggestions proposed, however, are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>

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	Recommendations 45 and 46 suggest that the Judicial Council collaborate with educational institutions and interpreter organizations to better prepare prospective interpreters to pass the credentialing exam and provide interpretation in civil cases and via remote technology. The Plan must do more than suggest collaboration, particularly with respect to meeting the training needs of indigenous language interpreters. It should call for the development of concrete training programs to train a reliable, qualified supply of interpreters in underserved languages, including indigenous languages. The same indigenous interpreter advisory committee or working group mentioned in our comments on Recommendation 43 could assist the Judicial Council in developing and implementing a training plan for indigenous interpreters to prepare them to meet whatever credentialing standards are put in place.	
41 Legal Services and Community Organizations (Position = AM)	46. [*Proposed Language*] The Judicial Council should collaborate with interpreter organizations and educational groups to create training programs for those who will be interpreting in civil cases and those who will be providing remote interpreting. The goal of this collaboration will be to produce effective, standardized training materials for current and future interpreters working with civil cases and remote interpreting technologies. Trainings should incorporate: - Reference materials containing standardized explanations of legal terminology and court procedures for civil cases - Remote interpreting trainings should educate current and future interpreters on effectively providing quality interpretation using technology.	The JWG believes that Recommendation No. 46 is sufficient as written and other recommendations already incorporate the suggested language. Any further detail regarding these collaborative efforts is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 46*] Recommend the Judicial Council Video Broadcasts be expanded and other instructor led training be developed to cover the various topics related to all case types.	The suggestion proposed is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.



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41 Legal Services and Community Organizations (Position = AM)	47. [ <b>*Proposed Language*</b> ] At a minimum, courts should require bilingual staff to possess a Superior proficiency level. Speakers with Superior proficiency are capable of assisting LEP speakers at access points that Intermediate Mid speakers are not. The LAP should require courts hire and retain a minimum number of staff with Superior proficiency in the languages most frequently encountered in the court's service area.	With regard to the minimum level of qualification for the designation of bilingual staff members, the JWG believes that the minimum level as currently addressed in the plan under Recommendation No. 47 is appropriate. The plan, as provided in Recommendation No. 48, also recognizes that certain points of contact such as self-help centers and information windows will require a higher level of proficiency than the minimum recommended Recommendation No. 47.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>[*Recommendation No. 47*] A bilingual standard is desirable, however, there is a cost of \$165 to take the Oral Proficiency Exam, as well as time involved. Will employees asking for bilingual pay be required to take the exam? Who will pay for it? If the court required the current 155 employees who receive bilingual pay take the test, it would cost \$25,575.00. Do the employees go to the test center on our time or theirs? During a discussion at the Judicial Council it was thought that if the employees wanted the premium pay, they would do this on their own time and be required to pay. Would this discourage staff from asking for the premium pay and using their bilingual skills?</p> <p>Recommend the AOC determine a less expensive method of qualifying bilingual staff who will not be used in courtrooms.</p> <p>Recommend a higher level of proficiency be required for paralegals.</p>	<p>The questions posed are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p> <p>Re. higher level of proficiency for paralegals: The plan, as provided in Recommendation No. 48, also recognizes that certain points of contact such as self-help centers and information windows will require a higher level of proficiency than the minimum recommended Recommendation No. 47.</p>

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	Recommend trial courts check the local county HR to see if there is a less expensive method - piggy back.	
41 Legal Services and Community Organizations (Position = AM)	48. <b>[*Proposed Language*]</b> Courts must ensure that the staff member at the point of contact possesses the language proficiency designated by the Judicial Council. This should be done in a standardized format, such as requiring staff members claiming to be bilingual take the OPE.	The JWG believes existing Recommendations No. 47 and 48 adequately address the goals behind the proposed language.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<b>[*Recommendation No. 48*]</b> On-line training is great. However, Judicial Council needs to keep in mind the length of training as it will pull critical staff from operations.	No response required.
41 Legal Services and Community Organizations (Position = AM)	49. <b>[*Proposed Language*]</b> The Judicial Council staff will work with educational providers, community-based organizations, and interpreter organizations to identify recruitment strategies to encourage bilingual individuals to pursue the interpreting profession or employment opportunities in the courts as bilingual staff. This includes identifying bilingual individuals and tailoring programs to fit their needs. Once these strategies have been identified, the Judicial Council will dedicate the resources necessary to implementing them.  Courts and the Judicial Council must implement an accountability mechanism to assess annual recruitment and retention. Action items as part of this recommendation include: - The Judicial Council will build coalitions with community organizations, local colleges and training centers to provide outreach on careers within the court system requiring language skills. The Judicial Council should work with career centers, attend job fairs, and develop an online presence, as well as other media strategies to promote opportunities. - The Judicial Council will implement mentor programs and training programs for individuals interested in becoming	The level of detail suggested in the proposed language is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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	<p>interpreters or working for the courts.</p> <p>- The Judicial Council will make the certification and examination process more accessible by offering scholarships or other assistance to prospective interpreters and bilingual staff who speak underserved languages.</p>	
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>All of Section V’s recommendations, except for recommendation 49 on recruitment, are in the first phase and should remain there. Parts of Recommendation 49, such as building relationships with community networks, should occur immediately to ensure a qualified resource pool of future bilingual staff and interpreters. However, this is partially accounted for in Recommendation 45 on training. Additionally, several recommendations must be implemented if a serious recruitment initiative is to be effective, so it is less urgent to move recruitment to Phase I.</p>	<p>No response required.</p>

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<b>Goal VI: Provide Judicial Branch Training on Language Access Policies and Procedures</b>		
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<p>California Commission on Access to Justice, Hon. Ronald B. Robie, Chair (Position = AM)</p>	<ul style="list-style-type: none"> <li>• <b>Staff training on language access policies and procedures is critical.</b> The Commission applauds Recommendation 50, regarding training court staff, administrators and bench officers to provide consistent, effective, and culturally competent language access services. In <i>Language Barriers</i>, the Commission recommended this type of training to give court staff the skills to determine what language assistance is needed, and what level of interpreter is capable of providing adequate service under the circumstances. The report further recommended that staff be provided with training in cultural differences because litigants from other countries may bring different political and cultural norms and perceptions that can affect courtroom communication. The report highlights the importance of adequate training because court staff without knowledge of the potential problems posed by cultural differences could inadvertently act or fail to act in ways that could prejudice the interests of litigants.</li> </ul>	<p>No response required.</p>
<p>California Rural Legal Assistance, Inc. (Position = AM)</p>	<p><b>Recommendation 50:</b> Recommendation 50 should include training for judicial officers and court staff on how to best identify the language needs of indigenous language speaking court users. As we have previously mentioned, the diversity of regional variations within indigenous language groups often leads to an individual being provided an interpreter whom he or she does not understand, and indigenous language speakers are often erroneously provided interpretation in Spanish. The Plan should state that the Judicial Council will consult with indigenous interpreters and community groups (possibly the group mentioned above in comments on Recommendations 43, 45 and 46) to develop protocols for identifying indigenous languages (i.e. what questions court staff must ask in order to</p>	<p>The specific detail of what will be included in the curricula for all training of court staff and judicial officers is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>

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	determine the language and regional variant spoken by an indigenous court user) and ensuring the correct interpreter is provided. The plan should require that court staff be trained in these protocols and provided continually updated information on the indigenous interpreter resources available to them.	
Superior Court of Fresno County, Sheran L. Morton, Court Executive Officer (Position = AM)	<p><b>Phase I – 50. Judicial Branch training regarding language access plan. Recommendation: Modify the second bullet to read, “Review the Professional Standards and Ethics for California Court Interpreters, Fifth Edition, May 2013.”</b></p> <p>The second bullet of this section currently reads: “The interpreter’s ‘ethical duty to clarify issues’ during interpretation and to report impediments to performance.</p> <p>It is unclear what the interpreter’s ‘ethical duty to clarify issues’ really means. California Rules of Court Rule 2.890 sets forth the requirements for the professional conduct for interpreters. Additionally, the <i>Professional Standards and Ethics for California Court Interpreters</i>, Fifth Edition, May 2013 goes into depth regarding the appropriate role of the interpreter. As the staff of the Judicial Council develop curricula for statewide and regional training, in addition to resource materials both the court and the interpreters need one document to specify the expectations so everyone has a chance for success.</p> <p>This also ties back to the critical need as currently set forth in <b>Phase III number 64, Complaints regarding court interpreters</b>, and the need for evaluations. Everyone needs to know and understand the expectations to allow us to reach our goal for fair and consistent service for LEP court users.</p>	Recommendation No. 43 already addresses the ongoing review by the Court Interpreters Advisory Panel of all existing standards for court interpreters.
Indigenous Language Interpreters and Community Organizations	<b>Recommendation 50.</b> The Plan should state that training for judges and court staff will include cultural sensitivity and	Recommendation No. 50 already addresses, in the last bullet point, training on cultural competence for all court

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(Position = AM)	competency training for working with indigenous court users. As stated above in Recommendation 1, this should also include training for court staff in how to properly identify indigenous languages and find the correct interpreter match. Spanish-English court interpreters should also receive this training as part of their continuing education requirements, because they are often in a position to recognize when an indigenous language speaker has been erroneously provided with Spanish interpretation. Mandated cultural sensitivity training for Spanish interpreters will also assist them to better cooperate with indigenous interpreters in relay interpreting settings, where some understanding of indigenous cultural norms, formal education levels, and linguistic differences would allow for better quality relay interpretation.	staff and judicial officers. With regard to the other additions proposed, the specific detail of what will be included in the curricula for all training of court staff and judicial officers is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 50. We recommend adding a bullet point to this description of what training should include, as follows: • The interpreter’s need for basic information, preparation time, and pre-appearance interviews in some proceedings such as trials and other evidentiary hearings.	Recommendation No. 50 has been revised to include more detail regarding working with interpreters. Any detail of what should be included in training curricula beyond what is already in the recommendation is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.
41 Legal Services and Community Organizations (Position = AM)	50. [*Proposed Language*] Judicial officers, court administrators, court staff, and court-appointed professionals will receive systematic training regarding the requirements and mandates under state and federal law, the judicial branch’s language access polices and requirements as delineated in California’s LAP, as well as the policies and procedures of their individual courts. Courts will schedule such trainings at regular intervals, at least every two years, and incorporate this information into written materials available to all staff and reviewed with new hires. Courts must also schedule additional trainings when policies are updated or changed. Each court’s	The specific detail of what will be included in the curricula for all training of court staff and judicial officers, as well as timelines for trainings and reporting by courts of designated training, are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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	<p>designated trainings coordinator must report to the state office the following information: (a) number of trainings their staff attended; (b) who led the trainings; and (c) materials reviewed at such trainings.</p> <p>At a minimum, the mandatory training topic areas include:</p> <ul style="list-style-type: none"> <li>- Background on language access issues, including review of legal requirements, mandates and policies</li> <li>- Review of California’s LAP</li> <li>- Processes for identifying LEP court users and for identifying the language spoken (including for indigenous and other languages with high degrees of regional variation)</li> <li>- Language access services available to LEP litigants, including technological assistance (interpreters, bilingual staff, translated materials, websites, VRI, headphones, kiosks)</li> <li>- Processes for appointment of interpreters and methods for verifying interpreter’s credentials</li> <li>- Role of interpreters inside and outside the courtroom</li> <li>- Interpreter code of ethics, including duty to clarify issues during interpretation and to report impediments to performance</li> <li>- Legal services and community-based organizations that court staff can refer to for more information on how to better serve LEP individuals</li> <li>- Cultural competency and awareness trainings on working with specific populations</li> <li>- How to work effectively with interpreters</li> <li>- (For judicial officers) Optimal methods for managing court proceedings involving interpreters, including the challenges of interpreter fatigue and the need to control rapid rates of speech and dialogue</li> <li>- (For qualified, non-certified bilingual court staff) How to work as an interpreter</li> </ul>	

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<ul style="list-style-type: none"> <li>- Available technologies and minimal technical and operational standards for providing remote interpreting</li> <li>- Role of the court’s language access coordinator</li> </ul>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 50*] Recommend each trial court develop a communication plan for ensuring that the language access plan and policies are widely disseminated and appropriately applied.</p> <p>Local Orange County Interpreter Information Sheet distributed to judicial officers and court clerks, Spring 2014, and shared with the Judicial Council.</p> <p>It’s recommended that the Judicial Council send curriculum out for comment once it’s developed.</p> <p>Strongly recommend that temporary judges and judges sitting on assignment be included in the training.</p>	<p>Recommendations Nos. 25, 50, 51, and 52 all address methods for ensuring the language access plan and its provisions are widely disseminated and properly applied.</p> <p>It is the intent of the JWG that temporary judges and judges sitting on assignment be included, as Recommendation No. 50 provides.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 51*] This would be part of the training</p>	<p>No response required.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p><b>Recommendation 52.</b> Bench cards and other language used by judges when explaining an individual’s language access rights should be conveyed in plain, understandable language. While the use of more accessible language is important throughout court proceedings, given the inherent communication challenges faced by LEP litigants, it is especially necessary to ensure that they understand their right to language assistance.</p>	<p>Recommendation No. 52 is aimed at creating a bench card for use by judicial officers to understand the court’s language access policies, not at creating materials or providing information to the public or LEP court users at large, which is addressed elsewhere in this plan. Therefore, the JWG believes the wording of Recommendation No. 52 is sufficient as written.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>52. [*Proposed Language*] Judicial Council staff should develop bench cards that summarize salient language access policies and procedures and available resources to assist bench</p>	<p>The specific detail of what will be included in the benchcards, and the process by which local courts will communicate local policies, are more appropriate for</p>



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<b>Goal VI: Provide Judicial Branch Training on Language Access Policies and Procedures</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	officers in addressing language issues that arise in the courtroom. Each individual court’s language access coordinator should be responsible for memorializing local policies and procedures in an easy-to-read format that should be regularly updated and distributed to all court staff, community members, and local agencies and organizations that serve LEP populations.	consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 52*] Orange County’s Interpreter Information Sheet has been submitted to CIAP as one example.	The JWG appreciates the submission. Samples have been collected and will be submitted to the Implementation Task Force.

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<b>Goal VII: Conduct Outreach to Communities Regarding Language Access Services</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
California Commission on Access to Justice, Hon. Ronald B. Robie, Chair (Position = AM)	<ul style="list-style-type: none"> <li><b>The courts should continue to communicate with the Limited English Proficient community and LEP advocates.</b> The Commission is aware of the tremendous amount of work that was involved in creating the <i>Strategic Plan</i> and commends the Joint Working Group for listening to so many voices in developing the <i>Plan</i>, particularly those of the LEP community and of the legal services community. Both the public hearings and Recommendation 53, “Courts should establish partnerships with local community-based organizations...to gather feedback to improve court services for LEP court users and disseminate court information and education,” parallel the recommendation in <i>Language Barriers</i> that “local courts work with community-based organizations...to address language access issues and needs.” Ongoing communication, education, and improvements to language access in the courts will ensure that the goals of the <i>Strategic Plan</i> continue to be met in the future.</li> </ul>	No response required.
41 Legal Services and Community Organizations (Position = AM)	53. [ <b>*Proposed Language*</b> ] Courts should establish partnerships with local community-based organizations, including social service providers, legal services organizations, government agencies, and minority bar associations to gather feedback to improve court services for LEP court users and disseminate court information and education throughout the community. Gathering such feedback should include, but is not limited to, a survey of local partners to determine current language needs, as a supplement to existing data sources.	The JWG believes that the proposed addition regarding one of the ways to gather feedback is not necessary, as courts should have the flexibility to develop the feedback mechanisms that are most appropriate given their existing, and new, relationships with their communities.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>[*Recommendation No. 53*] What does this look like? Is more needed than we have already done?</p> <p>We have complaint/suggestion forms. We have received</p>	With regard to the questions posed, they are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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<b>Goal VII: Conduct Outreach to Communities Regarding Language Access Services</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>feedback from our Leadership Academy for community leaders, and the court has conducted various surveys over the years. Staff did reach out to all bar associations to offer training on working with court interpreters; and other than the attorneys at family law and juvenile, no one was very interested.</p> <p>There are probably ethical issues with courts “establish[ing] partnerships” with organizations, in particular when the organizations are engaged in advocacy or often appear in court. Providing a transparent means of accepting comments would be sufficient.</p>	<p>Term “partnership”: Recommendation No. 53 has been revised to remove the word “partnership” and reference the need to strengthen existing relationships and create new ones.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>54. [*<b>Proposed Language*</b>] Courts should take affirmative steps to inform the public with specific information about language access services available in the courts by, among other means, ongoing communication with community-based organizations and other stakeholders. Such specific information disseminated to the public should include, but is not limited to: what an interpreter does and cannot do; the availability of free interpretation services; acknowledgement of improvements in language access over past practices; federal and state rights that guarantee meaningful language access; how to use and access self-help centers; basic, key requirements of the final LAP; information about Alternative Dispute Resolution programs; the potential use of video remote interpretation; and the availability of a complaint process regarding the quality of language assistance.</p>	<p>Former Recommendation No. 54 has been deleted and incorporated into Recommendation 5.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 54*] LEP plan posted on website. Other suggestions? Press release?</p>	<p>Note, former Recommendation No. 54 has been deleted and incorporated into Recommendation No. 5.</p> <p>With regard to the request for suggestions, they are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant</p>

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<b>Goal VII: Conduct Outreach to Communities Regarding Language Access Services</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
		suggestions to said committee.
41 Legal Services and Community Organizations (Position = AM)	55. <b>[*Proposed Language*]</b> To maximize both access and efficiency, multilingual audio and/or video recordings should be used to provide important general information and answers to frequently asked questions when possible; however, courts should also utilize alternative non-English language resources both in courthouses and in outside community outreach efforts, out of recognition that certain LEP individuals, including elderly and low-income persons, may not have sufficient comfort, familiarity, or regular access to certain technologies such that newer platforms would not convey information as effectively as more traditional methods.	The JWG believes the current plan language addresses providing information to LEP court users in a variety of formats, taking into account the concerns raised by the commentator. See Recommendations Nos. 5, 18 (former No. 15), 32 (former No. 31), 35 (former No. 34), 38 (former No. 37), and 53.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<b>[*Recommendation No. 55*]</b> This is a great idea where the information is not likely to change, or is not different depending on the judicial officer.	The JWG agrees that these tools are best directed at information not likely to change or not dependent on a particular courtroom or courthouse.
41 Legal Services and Community Organizations (Position = AM)	56. <b>[*Proposed Language*]</b> Courts should collaborate with a diverse selection of local media providers (including non-English television stations, local websites, newspapers, and radio stations) and leverage the resources of media outlets—including ethnic media that communicate with consumers in their language—as a means of disseminating information throughout the community about language access services, the court process, and available court resources.  56.1. (new) Courts should designate an individual or office responsible for overseeing and coordinating outreach efforts within a court’s service area to ensure that information communicated to the public is accurate and consistent over time, as well as to foster longterm working relationships with various community groups and other stakeholders.	The JWG appreciates the additional proposed language but does not believe it is necessary for inclusion and for the effectiveness and intent of Recommendation No. 55 (former No. 56).  With regard to the request for additional recommendations, they are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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<b>Goal VII: Conduct Outreach to Communities Regarding Language Access Services</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Similarly, centralized coordination should take place at the state level.</p> <p>56.2. (new) Where applicable, courts should place special emphasis on conducting outreach activities with smaller, less-widely spoken language groups and underserved languages, including indigenous language communities, both in terms of informing these groups about the availability of court services, but also with respect to potential recruitment of bilingual/multilingual language assistance providers.</p>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 56*] See #53 and 54 above. These are all related.</p>	<p>See responses to Recommendation No. 53 and former Recommendation No. 54 above.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>It is unacceptable that all of the [*community outreach*] recommendations under this section fall under Phase III. Courts should begin implementing these recommendations as quickly as possible, particularly those concerning the formation of partnerships with community groups and other stakeholders. Such partnerships will provide crucial feedback and avenues through which to distribute vital information to the public, and will inform much of the implementation of the LAP.</p> <p>Partnerships with the local community and disseminating information regarding language access services are critical in providing meaningful access to justice. Not taking steps to appropriately outreach to the community immediately paralyzes the effectiveness of the policies themselves. At a minimum, Recommendations 53, 54, and 56.1 should be moved into Phase I, and the remaining recommendations should be moved into Phase II.</p>	<p>The JWG disagrees and believes that it is of higher priority to put various language access services in place before doing additional community outreach. However, court efforts to conduct new or strengthened community outreach may begin right away.</p>

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<b>Goal VIII: Identify Systems, Funding, and Legislation Necessary for Plan Implementation and Language Access Management</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
California Commission on Access to Justice, Hon. Ronald B. Robie, Chair (Position = AM)	<ul style="list-style-type: none"> <li><b>Additional resources from the legislature are needed to implement the plan.</b> The Commission strongly endorses Recommendation 57 of the Strategic Plan, regarding securing funding for language implementation through legislation, so that all phases of the plan can be fully implemented without <i>any</i> reduction in other court services, which are already highly impacted by the last four years of budget cuts.</li> </ul>	<p>No response required.</p> <p>Note that former Recommendation No. 57 is now Recommendation No. 56.</p>
Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)	Complaint process – There may be an issue of having bilingual staff assist (page 78) since that may be the only staff that speaks the complainant’s language and may be the one they are complaining about. If that’s the case, there may need to be some referral process for assistance, keeping in mind confidentiality issues.	The JWG agrees about the potential for a conflict and believes courts, at the local level, are best equipped to handle this situation if and when it arises.
Indigenous Language Interpreters and Community Organizations (Position = AM)	<b>Recommendations 57 – 60.</b> The court system’s efforts to obtain sufficient funding to support the expansion of language access services should include funding allocated specifically for indigenous interpreter training. If this is not considered a budget priority, courts will continue to struggle to find qualified indigenous language interpreters and indigenous court users will continue to suffer from unequal access to the courts.	<p>The JWG believes detail on the allocation of funding is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p> <p>Note that former Recommendations Nos. 57-60 are now Recommendations No. 56-59.</p>
41 Legal Services and Community Organizations (Position = AM)	57. [* <b>Proposed Language*</b> ] The judicial branch will advocate for sufficient funding to provide comprehensive language access services as a core function and necessary cost of business. The funding request should reflect the incremental phasing in of the language access plan.	<p>The JWG believes the proposed language is not necessary to convey the intent and applicability of this recommendation.</p> <p>Note that former Recommendation No. 57 is now Recommendation No. 56.</p>
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 57*] Funding needs to include money to cover coordinators and staff to support expanded language access and training.	<p>The JWG agrees that this should be a component of any funding request.</p> <p>Note that former Recommendation No. 57 is now</p>

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<b>Goal VIII: Identify Systems, Funding, and Legislation Necessary for Plan Implementation and Language Access Management</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
		Recommendation No. 56.
41 Legal Services and Community Organizations (Position = AM)	58. <b>[*Proposed Language*]</b> Funding requests for comprehensive language access services must be premised on the best available data that identifies the resources necessary to effectuate the recommendations of California’s Language Access Plan. This may include information being gathered in connection with the recent Judicial Council decision to expand the use of Program 45.45 funds for civil cases where parties are indigent; information being gathered for the 2015 Language Need and Interpreter use Report; already-available data through the Department of Education and local welfare agencies such as the Department of Public Social Services; and information that can be extrapolated from the Resource Assessment Study (which looks at court staff workload), as well as other court records (e.g., self-help center records regarding LEP court users).	The JWG believes the proposed language is not necessary to convey the intent and applicability of this recommendation.  Note that former Recommendation No. 58 is now Recommendation No. 57.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 58*] Recommend the Judicial Council provide support and resources as needed to assist trial courts in capturing accurate cost data for funding requests.	Recommendations Nos. 6 and 7 already address support by the Judicial Council regarding capturing necessary data.  Note that former Recommendation No. 58 is now Recommendation 57.
41 Legal Services and Community Organizations (Position = AM)	59. <b>[*Proposed Language*]</b> Judicial Council staff will pursue other funding opportunities from federal, state, or nonprofit entities, such as the National Center for State Courts, which are particularly suitable for one-time projects such as translation of documents or production of videos.	The JWG agrees with the use of “will” and has revised Recommendation No. 58 (former No. 59) accordingly.
Superior Court of Orange County, Alan Carlson, Court Executive Officer	[*Recommendation No. 59*] If other funding is available, courts should be made aware of it and requesting the funding should not be overly complicated. Generally, one-time funders	The Judicial Council is not in control of whether funding applications or opportunities from other outside agencies are overly burdensome or complicated. Judicial Council

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<b>Goal VIII: Identify Systems, Funding, and Legislation Necessary for Plan Implementation and Language Access Management</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
(Position = AM)	<p>are interested in new ideas or new approaches, not routine expenses, such as translation of documents or replication of videos where someone has already done something like what is being requested.</p> <p>The National Center for State Courts is not a funding source, although they may seek courts to engage in pilot projects with funding FROM the courts or other funders.</p>	<p>staff currently makes and should continue to make every effort to assist courts in completing grant applications. The JWG agrees that one-time funding applications will need to take the funders’ eligibility requirements into account. Pilot-related funding can be useful for courts that are expanding into new service delivery models.</p> <p>Note that former Recommendation No. 59 is now Recommendation No. 58.</p>
41 Legal Services and Community Organizations (Position = AM)	<p>60. <b>[*Proposed Language*]</b> Courts will pursue other funding opportunities at the national, state, or local level to support the provision of language access services. Courts should seek, for example, onetime or ongoing grants from federal, state, or local governments, and others.</p>	<p>The decision to pursue other funding opportunities must be left to the discretion of the courts, as the decision often involves consideration of other local needs and resources.</p> <p>Note that former Recommendation No. 60 is now Recommendation No. 59.</p>
Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer (Position = N)	<p><b>[*Recommendation No. 60*]</b> The pursuit of grant funding does not seem like a realistic strategy for systemic and structural expanded language access. Grant funds are limited-term, and are often tied to specific deliverables/objectives, which may or may not align with the statewide strategies outlined in this Plan. Reliance on grant funds can lead organizations down a path of chasing funding, rather than implementing policy consistently. Further, any significant reliance on this funding source will result in disparate service levels from court to court, which in and of itself will raise access and equity concerns.</p>	<p>The JWG is not suggesting that courts rely on grant funds to provide language access. To the contrary, as stated in Recommendation No. 59 (former No. 60), courts are merely encouraged to pursue other funding opportunities, and such opportunities are meant to support the provision of language access services, and not be the sole or principal source of funds for provision of services.</p>
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p><b>[*Recommendation No. 60*]</b> Recommend the Judicial Council provide guidance, support and coordination in this area to ensure trial courts are not competing against each other for these sources of funding.</p>	<p>While Judicial Council staff currently supports trial courts in identifying or seeking sources of funding, the JWG acknowledges that coordination of efforts would be useful and will forward this comment to the Implementation Task Force.</p>



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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	More fundamentally, one time funding will not solve the basic problems covered in this report, which are ongoing, and have existed for quite some time.	Note that former Recommendation No. 60 is now Recommendation No. 59.
Indigenous Language Interpreters and Community Organizations (Position = AM)	<b>Recommendation 61.</b> The Language Access Implementation Advisory Committee should include representation of indigenous language interpreters as well as indigenous community organizations to ensure that the particular needs of indigenous language speakers are understood and addressed throughout implementation of the Plan.	Recommendation No. 60 (former No. 61) states the Judicial Council will create a Language Access Implementation Advisory Committee, which includes representatives of major stakeholders, including court interpreters among others.
41 Legal Services and Community Organizations (Position = AM)	61. [* <b>Proposed Language*</b> ] The Judicial Council will create a Language Access Implementation Advisory Committee (name TBD) to develop a phased implementation plan for presentation to the council. As part of its implementation plan, the committee will identify the yearly costs required to phase in the LAP recommendations. Legal services and community organizations must be included in this Implementation Committee as stakeholders.	The specific duties of the Implementation Task Force are more appropriate for consideration by the Implementation Task Force itself. The JWG will forward all relevant suggestions to said committee.  Note that former Recommendation No. 61 is now Recommendation No. 60.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 61*] Recommend trial courts be allowed flexibility to implement to meet local needs considering local resources and regional MOUs.	The JWG believes the plan provides local courts the necessary flexibility to meet local needs and consider local resources and memoranda of understanding.  Note that former Recommendation No. 61 is now Recommendation No. 60.
41 Legal Services and Community Organizations (Position = AM)	62. [* <b>Proposed Language*</b> ]The Implementation Committee will develop a single form available free of charge either online or at the courts that is available statewide as a mechanism for monitoring all concerns related to language access at the local or state level. The form should be used as part of multiple processes identified in the following recommendations of this plan. However, completion of such form is not necessary to raise a complaint.	Recommendation No. 62 has been revised to clarify the availability of the complaint form in hard copy.  Regarding proposed Recommendation 63.5, the JWG believes that the Implementation Task Force will be able to seek community input as needed.

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	63.5. (new) The courts will create both a statewide Language Access Oversight Committee (LAOC) and local LAOCs to ensure implementation of the language access plan on a statewide and local level. Such LAOCs must include legal services providers and provide monitoring functions	
Indigenous Language Interpreters and Community Organizations (Position = AM)	<b>Recommendation 62 – 67.</b> The compliance and monitoring system should include provision of clear information to the public. Any complaint forms or processes should be designed to be as simple, streamlined, and user-friendly as possible to in order to be accessible to all court users, including indigenous language speakers.	The JWG agrees and has included this language. Recommendation No. 62 provides for a single complaint form, readily available, and Recommendation No. 64 provides for the system to be clearly communicated and in plain language.  Note that former Recommendations Nos. 62-67 are now Recommendations No. 61-65.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 62*] Recommend local court involvement in order to address local issues. Recommend state oversight as it pertains to ruling as to certification/ registration status.	Recommendation No. 63 (former No. 66) has been revised to indicate that review of complaints regarding a court’s provision, or lack of provision, of language access services shall occur at the local level, and that complaints shall be reported to the Judicial Council for the purposes of ongoing monitoring of the language access plan.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendations 62, 65 and 66. We support the concept of a complaint form related to language access issues, and assessment of interpreter skills and adherence to ethical requirements. These processes should be developed with interpreter organizations, and should include peer review and	The JWG appreciates support for Recommendations Nos. 62, 65 and 63 (former No. 66). With regard to specifics regarding the implementation of these recommendations, they are more appropriate for consideration by the Implementation Task Force itself.

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	an opportunity for interpreters to be informed of and respond to any issues that arise.	The JWG will forward all relevant suggestions to said committee.
41 Legal Services and Community Organizations (Position = AM)	We propose one of these two options: - Recommendation 63 be moved from Phase II to Phase I; move Recommendations 64-67 to Phase I, OR - Include specific baseline procedural safeguards in the LAP itself or to be developed by the Implementation in Phase I; move Recommendations 64-67 to Phase II.	Recommendation Nos. 61 (former No. 63) and 63 (former No. 66) have been moved to Phase 1. Recommendation Nos. 64 has been moved to Phase 2. Recommendation No. 65 remains in Phase 3. Former Recommendation 67 has been deleted.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 63*] Data collection requirements should be made known to courts well in advance of collection, so that the infrastructure to collect the data may be put in place. This often requires modification to CMSs, training of staff, etc.	With regard to specifics regarding plan compliance and monitoring, implementation of this recommendation is more appropriate for consideration by the Implementation Task Force itself. The JWG will forward all relevant suggestions to said committee.
Superior Court of Fresno County, Sheran L. Morton, Court Executive Officer (Position = AM)	<b>PHASE III – 64. Complaints regarding court interpreters Recommendation: begin developing a process to evaluate interpreters immediately.</b> Currently there is no standardized process to evaluate the quality and the accuracy of an interpreter’s skills. This makes it extremely difficult – almost impossible - to handle a complaint regarding an interpreter. In the past, when a complaint was made regarding an interpreter’s inaccurate interpretation of what was said in the courtroom, the Judicial Council staff attorneys were unable to help with any type of solution or even a viable recommendation. The interpreters are the only court employees that do not have an evaluation process in place. This opens up courts for grievances, PERB charges, and general distrust by our employees and the very people we are working so hard to provide quality access to our courts.	No response required.
41 Legal Services and Community Organizations	64. [*Proposed Language*] The Judicial Council, together with stakeholders, will develop a complaint process by which	Recommendation No. 64 has been revised to add further language regarding development of a process to ensure

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
(Position = AM)	the quality and accuracy of an interpreter’s skills and adherence to ethical requirements can be reviewed.	compliance with qualification standards and appropriate remedial action if necessary.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 64*] This is long overdue and should be combined with recommendation 43 above.	No response required.
41 Legal Services and Community Organizations (Position = AM)	66. [ <b>*Proposed Language*</b> ] Individual courts and their Language Access Coordinators will develop a process by which LEP court users, their advocates and attorneys, or other interested persons may seek review of a court’s provision of, or failure to provide, appropriate language access services, including issues related to locally produced translations. The process must consider local labor agreements. “Local courts must follow the local baseline procedures offered in this plan and further developed by the Implementation Committee. The Language Access Coordinator must serve as a point-person to receive and administer complaints, and also to adjudicate complaints.	Recommendation No. 63 (former No. 66) has been revised to indicate that review of complaints regarding a court’s provision, or lack of provision, of language access services shall occur at the local level, and that complaints shall be reported to the Judicial Council for the purposes of ongoing monitoring of the language access plan.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 66*] Orange County already has a feedback process available and any language related complaints are sent to the CRIS office for review. CRIS takes action if necessary, and responds to the complainant.	No response required.
41 Legal Services and Community Organizations (Position = AM)	67. [ <b>*Proposed Language*</b> ] The Implementation Committee will develop a process by which a litigant or his or her legal representative may request a review of the outcome of any complaint submitted to a court regarding (1) quality or accuracy of an interpreter’s skills and adherence to ethical requirements as described in Recommendation 64; (2) the quality of translations approved by the judicial Council as described in Recommendation 65; or (3) provision of, or failure to provide, appropriate language access services, as described	Recommendation No. 67 has been deleted.

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	in Recommendation 66. The Implementation Committee or another centralized body will adjudicate appeals, with published decisions as binding precedent. Filing and decisions shall be stored in a database to monitor progress and areas for improvement.	
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 67*] Why would a language access complaint be given any different treatment than another complaint? Does there really need to be a formal review process? Someone who is unhappy with the response they receive will find a way to elevate the complaint anyway.	Recommendation No. 67 has been deleted.
41 Legal Services and Community Organizations (Position = AM)	68. [ <b>*Proposed Language*</b> ] The Judicial Council will create a statewide repository of language access resources, whether existing or to be developed, that includes translated materials, audiovisual tools, and appeal decisions on complaints pertaining to implementation of the LAP Plan, interpretation, or translation. The statewide LAOC shall have discretion to determine whether certain appellate decisions shall serve as binding precedent on implementation of the LAP statewide.	The JWG has maintained the language of Recommendation No. 66 (former No. 68). The JWG has deleted former Recommendation No. 67, and therefore, there is no statewide review of locally determined-upon complaints, so appeals at the statewide level are not included in this plan.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 68*] Recommend translation committee oversight to ensure quality material is being posted.	The JWG agrees. Note that former Recommendation No. 68 is now Recommendation No. 66.
41 Legal Services and Community Organizations (Position = AM)	69. [ <b>*Proposed Language*</b> ] The California Courts of Appeal and the Supreme Court of California will discuss and adopt applicable parts of California’s Language Access Plan with necessary modifications.  69.1. (new) The Implementation Committee will meet with the statewide LAOC at least quarterly and more often as needed to ensure implementation of the LAP.  69.2. (new) The Implementation Committee, along with the	Changing “should” to “must”: The JWG has maintained the language of Recommendation No. 67 (former No. 69).  Re. proposed new recommendations 69.1 and 69.2: Further specifics regarding the implementation of these recommendations or of the duties of the Implementation Task Force are more appropriate for consideration by the Implementation Task Force itself. The JWG will forward all relevant suggestions to said committee.

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	<p>statewide LAOC, shall conduct public hearings throughout the state after Phases I, II, and III to assess the ongoing needs, and as often thereafter as deemed necessary by the committee.</p> <p>69.3. (new) The courts must record proceedings involving LEP litigants. Transcripts from such proceedings may be used in the complaint process or for monitoring purposes, and may also be used for appeals. Courts must notify LEP litigants of their right to have proceedings recorded or reported, subject to fee waiver rules.</p>	<p>Re. proposed new recommendation 69.3: The JWG does not believe at this time that it is appropriate to recommend or request that courts record proceedings involving LEP litigants.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 70*] Recommend civil case types adopt the same rules of court that apply to criminal and juvenile matters for making a finding of good cause.</p> <p>Recommend these rules be updated for all case types. Concerns: What if NO interpreter is available – credentialed or not? Can the courts deny a request for an interpreter? If the court advertises that interpreters are available in civil and small claims and can’t meet the demand, what are the expectations?</p>	<p>Recommendations 69 through 73 (former 70 through 74) are technical recommendations which work together to assure that the processes, rules, forms and legislation will all be in place to provide qualified interpreters in civil cases, including small claims. When a certified or registered interpreter is not available, good cause procedures and guidelines should be consistent with those required in criminal and juvenile matters.</p>
<p>California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)</p>	<p>Recommendations 70, 71. Good cause and qualification procedures should be the same for civil as criminal. There should not be a different standard.</p>	<p>Recommendations 69 through 73 (former 70 through 74) are technical recommendations which work together to assure that the processes, rules, forms and legislation will all be in place to provide qualified interpreters in civil cases, including small claims. When a certified or registered interpreter is not available, good cause procedures and guidelines should be consistent with those required in criminal and juvenile matters.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>Under Recommendations 70 and 73, “good cause” for appointing a non-certified interpreter should be narrowly defined. As written, the description of the issue and the</p>	<p>Recommendations 69 through 73 (former 70 through 74) are technical recommendations which work together to assure that the processes, rules, forms and legislation</p>

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	<p>recommendation leave the impression that court labor issues, without more, can be good cause for using non-credentialed interpreters. This cannot be the case, because that exception would give any court good cause for not using credentialed interpreters at any time. We believe using current Rule 2.893 would prevent this from happening. However, the LAP should specify that court labor issues cannot be an independent basis for used non-credentialed interpreters.</p> <p>70. <b>[*Proposed Language*]</b> The Judicial Council should, under Government Code section 68564, establish procedures and guidelines for determining “good cause” to appoint non-credentialed court interpreters in civil matters. “Good cause” should be narrowly defined as extenuating circumstances in non-priority cases where the court must demonstrate in writing to the Language Access Coordinator an inability to provide a certified interpreter. The Implementation Committee and/or the LAOC must review these statements periodically to determine where courts are failing to provide certified interpreters.</p>	<p>will all be in place to provide qualified interpreters in civil cases, including small claims. When a certified or registered interpreter is not available, good cause procedures and guidelines should be consistent with those required in criminal and juvenile matters.</p> <p>.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 71*] See #70 above.</p>	<p>Recommendations 69 through 73 (former 70 through 74) are technical recommendations which work together to assure that the processes, rules, forms and legislation will all be in place to provide qualified interpreters in civil cases, including small claims. When a certified or registered interpreter is not available, good cause procedures and guidelines should be consistent with those required in criminal and juvenile matters.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>73. <b>[*Proposed Language*]</b> The judicial council should sponsor legislation to amend Code of Civil Procedure section 116.50 dealing with small claims actions to reflect that interpreters in small claims cases must, as with other matters,</p>	<p>Recommendations 69 through 73 (former 70 through 74) are technical recommendations which work together to assure that the processes, rules, forms and legislation will all be in place to provide qualified interpreters in</p>

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	be credentialed except for a finding of good cause to appoint a non-credentialed interpreter. “Good cause” should be narrowly defined as extenuating circumstances in non-priority cases where the court must demonstrate in writing to the Language Access Coordinator an inability to provide a certified interpreter.	civil cases, including small claims. When a certified or registered interpreter is not available, good cause procedures and guidelines should be consistent with those required in criminal and juvenile matters.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 73*] If the court advertises that interpreters are available in civil and small claims and can’t meet the demand, what are the expectations? Rather than confusing the language with credentialed/qualified, why not just say certified, registered, or provisionally qualified interpreters? Credentialed sounds like another level or classification of interpreter.	Recommendation No. 72 (former No. 73) has been modified as follows: “The Judicial Council should sponsor legislation to amend Code of Civil Procedure section 116.550 dealing with small claims actions to reflect that interpreters in small claims cases should, as with other matters, be certified or registered, or provisionally qualified where a credentialed interpreter is not available.”
Diana Barahona, Court Interpreter, California Federation of Interpreters (Position = N)	Regarding recommendation #75, which proposes increasing the number of days independent contractors can work per year:  I propose that the law not be changed. If independent contractors want to work for the courts for more than 100 days, they can simply apply for employment under “F” status. This would make them employees, able to work as many days per year as they wanted to, while imposing no obligation on them to accept assignments. Because of this, it is unnecessary to make any changes to the Trial Court Interpreter Employment and Labor Relations Act.  Attempts to change the law would be highly detrimental to interpreters, the courts and to LEP individuals. The Trial Court Interpreter Employment and Labor Relations Act was passed to provide secure employment and benefits to hundreds of interpreters who were acting as de facto public employees, as	Recommendation No. 74 (former No. 75) states that the Language Access Implementation Task Force (name TBD) should evaluate existing law, including a study of any negative impacts of the Trial Court Interpreter Employment and Labor Relations Act on the provision of appropriate language access services. Any recommendations by that committee to make changes to existing law will be made at a future time after study and evaluation.



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	well as to make the quality of interpreting more uniform and professional. The 100-day rule was put into the law to prevent widespread outsourcing interpreting services to the private sector that could be provided by court employees. The obvious solution to the need for more court interpreters is not to re-privatize interpreting services, but to hire more interpreter employees.	
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	<p>[*Recommendation No. 75*] The contracting out limitations in the Interpreter Act allow significant use of contractors and should not be changed. These restrictions support the employment system. If the courts have difficulty attracting and retaining enough interpreters this can better be addressed by creating a career path for young interpreters and improving working conditions and pay.</p> <p>We do not agree that the 100-day rule (limiting contractor use to 100 days per calendar per county) has a negative impact on courts' access to certified interpreters. In languages other than Spanish this is not an issue because the volume of work is such that contract interpreters will rarely hit that limit. Individual contractors can work in multiple counties and work full time for the courts by working in only three counties (241 work days per year). Moreover, a contractor who works 100 days in a single trial court is working nearly 50% time. These individuals do not have to stop working for the trial court; they have the option instead, under the law, to become as-needed employees and continue working in a manner that is very similar to contracting. They can continue working only as available, and the courts are not obligated to use them if there is not work. This flexibility in the employment system makes this a non-issue.</p> <p>The courts have not raised this as a problem in collective</p>	See response for Recommendation No. 74 (former No. 75).

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	bargaining. To the extent that there is a demonstrable problem with this limitation that affects the courts ability to access needed interpreters, however, the courts could seek relief on this issue in collective bargaining.	
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 75*] The 100-day limit on contractors may lead to a shortage of interpreters. By 100 days, most of them have already received a 45-day intermittent offer and they don't want to be an employee. At 100 days the court must stop using them. The contractor then accepts jobs in other counties – working anyway – and the other county often has to pay premium rates and/or mileage to get the interpreter. Overall it would be less expensive for the state if there were no limits. If someone doesn't want to be an employee, let them work as a contractor as needed. Not clear why the recommendation is to repeal CCP 116.550 and GC 68560.5(a), but only study the impact of GC 71802? The special provisions for certain categories of interpreters are a problem, recommend repealing the special interest provisions of this section as well.	No response required.  Note that former Recommendation No. 75 is now Recommendation No. 74.
Diana Barahona, Court Interpreter, California Federation of Interpreters (Position = N)	Regarding recommendation #76, which proposes having LEP persons waive their right to an interpreter:  I propose that no waivers of interpreter be allowed without counsel present. A person who doesn't have a lawyer and who doesn't understand English well (LEP) cannot make a knowing, intelligent and voluntary waiver of an interpreter. A waiver should only be allowed if the LEP individual has legal counsel present.  That said, people previously identified as LEP who don't have lawyers present should be allowed to state to the court that they are, in fact, proficient in English, (which is not the same as waiving their right to an interpreter) that they understand everything that is going on and that they can express	Recommendation No. 75 (former No. 76) has been significantly revised: “75. The Implementation Task Force will develop a policy addressing an LEP court user’s request of a waiver of the services of an interpreter. The policy will identify standards to ensure that any waiver is knowing, intelligent, and voluntary; is made after the person has consulted with counsel; and is approved by the appropriate judicial officer, exercising his or her discretion. The policy will address any other factors necessary to ensure the waiver is appropriate, including: determining whether an interpreter is necessary to ensure the waiver is made knowingly; ensuring that the waiver is entered on the record, or in writing if there is no official record of the proceedings;

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	<p>themselves clearly. Whether this is the case can be determined by the judicial officer, using the same standards used to find that jurors are proficient in English.</p>	<p>and requiring that a party may request at any time, or the court may make on its own motion, an order vacating the waiver and appointing an interpreter for all further proceedings. The policy shall reflect the expectation that waivers will rarely be invoked in light of access to free interpreter services and the Implementation Task Force will track waiver usage to assist in identifying any necessary changes to policy. (Phase 1).”</p>
<p>Indigenous Language Interpreters and Community Organizations (Position = AM)</p>	<p><b>Recommendation 76.</b> Because of cultural norms and historical experience making do with only Spanish language interpretation, many indigenous language speakers could be easily swayed to waive their right to an interpreter in their language by the mere suggestion that they are permitted to do so. In developing a rule of court to allow for waiver of an LEP person’s right to an interpreter, the Judicial Council should explicitly ensure that the option to waive the right to an interpreter must always be presented to an LEP person in his or her preferred language. In enforcing such a rule, judges, court staff, and interpreters should be sensitive to the risk of unintentionally persuading an indigenous language speaker to waive his or her right to an indigenous language interpreter and receive training on how to avoid such an outcome.</p>	<p>Recommendation No. 75 (former No. 76) provides for development of a policy that would include judicial discretion in granting or denying a waiver (see above).</p>
<p>Superior Court of Los Angeles County (no name provided) (Position = AM)</p>	<p>[*Recommendation No. 76*] As demonstrated above, LASC shares many of the strategic directions laid out in the Plan. However, we have a significant disagreement with the following: “The Judicial Council should develop a rule of court establishing a procedure by which LEP persons may, at any point, be allowed to waive the services of an interpreter so long as the waiver is knowing, intelligent, and voluntary; is made after the person has consulted with counsel (if any); and is approved by the appropriate judicial officer, exercising his or her discretion. At any later point in the proceedings, the LEP</p>	<p>Recommendation No. 75 (former No. 76) provides for development of a policy that would include judicial discretion in granting or denying a waiver (see above).</p>

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	<p>person may, by a showing of good cause, request an order vacating the waiver and appointing an interpreter.” This decision is best made by the judge assigned to the case in light of case law and the facts of the case, rather than through court rule.</p>	
<p>California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)</p>	<p>[*Recommendation No. 76*] In our experience, judges routinely accept interpreter waivers in criminal matters without an understanding that having an LEP person proceed in a case without an interpreter has serious due process implications. Attorneys regularly waive their client’s right to an interpreter without knowledge or understanding of case law that requires waiver of the constitutional right to an interpreter in criminal matters must be personal, knowing, intelligent and voluntary.</p> <p>Waiving the right to an interpreter without an interpreter to take the waiver begs the question as to how a knowing and personal waiver can be made without an interpreter to ensure the LEP court user fully understands.</p> <p>We are concerned about institutionalizing this practice by providing procedures that, similar to the good cause clause, may become a routine method of circumventing language access requirements. LEP persons generally do not understand their language access rights in the first place, and can easily feel pressured to “cooperate” with authorities and proceed without full understanding. In reality, judicial officers and attorneys often place greater value on expediency and convenience than on protecting language access rights. LEP persons likewise may value convenience or wish to avoid delays and may be willing to sacrifice full understanding or participation. This is not necessarily in the interest of the other parties or the court itself, since all parties have an interest in sound decisions being made based on a clear understanding of</p>	<p>See above for Recommendation No. 75 (former No. 76)</p>

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	the facts and evaluation of the credibility of all information provided to the court.	
41 Legal Services and Community Organizations (Position = AM)	<p>Under Recommendation 76, the LAP should not require good cause or a request to “vacate the waiver” for a litigant to change his or her mind and request an interpreter following a waiver. LEP litigants have a right to an interpreter and that must be allowed at any time regardless of any prior waiver, especially given the possibility that a litigant may not realize the severity of the need for an interpreter until actively trying to navigate proceedings without one.</p> <p>76. [<b>*Proposed Language*</b>] The Judicial Council should develop a rule of court establishing a procedure by which LEP persons may, at any point, be allowed to waive the services of an interpreter so long as the waiver is knowing, intelligent, and voluntary; is made after the person has consulted with counsel (if any); and is approved by the appropriate judicial officer, exercising his or her discretion. At any point later in the proceedings, the LEP person may rescind the waiver and request an interpreter.</p>	Recommendation No. 75 (former No. 76) has been revised and the requirement of good cause to vacate the waiver has been deleted.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>[*Recommendation No. 76*] Questions: Who has determined that the person is LEP? The court? A clerk? Is this only for instances when an LEP party has asked for an interpreter and then changes their mind and the court wants to ensure that they are knowingly giving up their rights? Why would you need an order vacating the waiver? Wouldn't the minutes indicate the party requests an interpreter, and one would be appointed? From then on, the case would be flagged for an interpreter, unless the person waives one again.</p> <p>For consistency should the waiver be drafted so that all judicial officers use the same wording? Would this be at a state or local</p>	Recommendation No. 75 (former No. 76) has been significantly revised, and charges the Implementation Task Force with developing a policy for waiver of a court interpreter by a LEP court user (see above).

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	level? There was no discussion of waiver in the body of the report	
California Commission on Access to Justice, Hon. Ronald B. Robie, Chair (Position = AM)	<ul style="list-style-type: none"> <li><b>Implementation of the Strategic Plan should be swift.</b> The Commission commends the Joint Working Group for proposing that Phase I of the Plan be implemented in 2015, and that the courts “will provide language access in all court matters by 2020.” As the Commission’s report <i>Language Barriers</i> noted nearly a decade ago, “(t)he starkest consequence of linguistic barriers to the courts is simply that justice is unavailable.”</li> </ul>	No response required.
Legal Aid Association of California (Position = AM)	<p><b>There must be no unnecessary delay in creating the statewide Language Access Implementation Advisory Committee.</b> LAAC is concerned, as stated in the collaborative comments, that there is no deadline for the creation of the Language Access Implementation Advisory Committee (LAIAC). We urge the Judicial Council to adopt a firm and immediate deadline so that no further work is delayed by the process of creating the LAIAC. The LAP has overly generous deadlines and includes in later phases many recommendations that we believe should be implemented in Phase I. In addition, even the Phase I recommendations could be unnecessarily delayed if local courts wait to act until the LAIAC is created, meets, and makes specific recommendations or requirements.</p> <p><b>The LAP must require statewide and local or regional Language Access Oversight Committees.</b> As written, the plan requires an implementation committee, but not a committee that would oversee ongoing policies and procedures in action after the implementation plan is adopted by the LAIAC. LAAC believes that separate bodies are necessary to monitor local court procedures and make local recommendations to meet the</p>	<p>It is the intent of the JWG that Recommendation No. 60 (former No. 61) regarding the creation of a Language Access Implementation Task Force, slated for Phase 1, be implemented immediately upon approval of this plan by the Judicial Council.</p> <p>The specific makeup and duties of the Language Access Implementation Task Force will be determined when the Chief Justice makes her appointments. The JWG added brief language to Recommendation No. 60 to clarify that the Implementation Task Force membership should include representatives of the key stakeholders in the provision of language access services in the courts, including, but not limited to, judicial officers, court administrators, court interpreters, legal services providers, and attorneys that commonly work with LEP court users.</p>

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	<p>specific needs of their constituents. Legal services organizations will be instrumental in helping to identify additional manuals, documents, and other resources for those needing interpreters to access court services. The local Language Access Oversight Committees (LAOC) should monitor the complaints received to identify larger systemic problems submitted by court users via the complaints.</p> <p><b>Legal services representatives must have dedicated membership on all committees with implementation and monitoring roles for the LAP.</b> Having committee members who are knowledgeable about the challenges faced by low-income LEP Californians attempting to access the courts is extremely important. LAAC believes that the easiest way to ensure this is to have legal services representation on the LAIAC and statewide and local LAOCs. LAAC believes it is important to have at least two representatives so that a richer set of perspectives are represented in the committees. Additionally, legal services representatives, as shown by the collaborative comment, are extremely knowledgeable about availability of data, potential sources of additional funding, and the importance of the ultimate long-term success of the goals of this plan.</p>	