

**POLICIES AND PROTOCOLS FOR THE USE OF BILINGUAL VOLUNTEERS
IN THE CALIFORNIA COURTS
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INTRODUCTION

California is the most diverse state in the nation, with over 200 different languages spoken and nearly seven million Californians reporting that they speak English “less than very well.”¹ The need to ensure full access to the courts for Limited English Proficient (LEP) individuals is the driving force behind the Strategic Plan for Language Access, a comprehensive report and set of recommendations for the branch adopted by the Judicial Council in January 2015. The Strategic Plan envisions a state court system that provides equal access to justice for all Californians, regardless of language status, and contains a number of recommendations regarding the important role of bilingual court employees and volunteers in that effort. Specifically, Recommendation No. 34 states: “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.”²

Many of California’s superior courts already benefit from well-developed volunteer programs, with opportunities for professionals and paraprofessionals to learn about legal processes and court administration while providing a valuable service to the court and the community. Some examples of areas and programs in which courts have benefitted from volunteer participation include: court operations, jury enrollment, supervision of court-ordered visitation, staffing of children’s waiting rooms and self-help centers.

Given the often sensitive nature of information disclosed during court proceedings, the possibility of contact with and responsibility for the well-being of children, and the role of representing the judiciary, it is important to ensure that all court volunteers are strictly vetted and satisfy all requirements for working with the public, when appropriate. In addition, there are special considerations that should be taken into account when devising programs for bilingual volunteers, or when creating a special category for bilingual volunteers within existing volunteer programs.

The Language Access Plan Implementation Task Force (LAPITF) has developed the following guidelines and best practices for the use of bilingual volunteers in court settings.

ABOUT THE GUIDELINES

1. These guidelines apply to court-based volunteer programs that recruit bilingual community members, and programs designed specifically to serve LEP court user populations through bilingual and bicultural volunteers.

¹ US Census Bureau. American Community Survey 2009-2013 Language Tables, *at* <http://www.census.gov/data/tables/2013/demo/2009-2013-lang-tables.html>.

² *Strategic Plan for Language Access in the California Courts*, Judicial Council of California, 2015. Available at: http://www.courts.ca.gov/documents/CLASP_report_060514.pdf

2. These guidelines do not recommend or suggest the development of a volunteer program for the delivery of language access services. The use of volunteers for specific court operations and procedures is a local court decision.
3. These guidelines address the recruitment, qualification, training and supervision of bilingual court *volunteers* only, and do not apply to bilingual court employees.

RECRUITMENT OF BILINGUAL VOLUNTEERS

4. Courts should seek opportunities to recruit and advertise for volunteers in target language venues, such as internet websites, television and radio stations.
5. In developing programs and recruiting volunteers, courts may want to consider establishing contacts with various service clubs organized around the needs of particular immigrant groups in their local community. Courts also may want to consider establishing relationships with nearby colleges and universities, which are good sources of language and legal professionals.
6. Because of the high professional and ethical standards expected of volunteers representing the court to LEP court users, courts should explicitly state the qualifications, training and ethical requirements of the volunteer role when advertising for volunteers through any medium.

Commentary

In addition to the traditional venues for volunteer recruitment (such as websites, volunteer coordinating organizations, service clubs, and public service announcements in newspapers and magazines), bilingual volunteers can be solicited in target language media sites, such as Univision (Spanish) and Chinese radio outlets. There are also social and community organizations focused on serving the needs of the various ethnic communities within the state, whose members may be interested in participating in a court volunteer program, or who could collaborate with the court in developing programs to serve LEP court users. Finally, local colleges and universities are an excellent source of potential volunteers with language skills. Volunteer work with the courts may appeal to both students and professors affiliated with language departments or interpreter training programs. Bilingual law school students can also be recruited to participate in a variety of tasks in the court and the self-help center.

Court personnel and volunteers frequently assist members of the public who are in difficult situations. Court users who are limited English proficient may experience additional vulnerabilities because of language and cultural barriers. Courts should therefore explicitly reinforce the importance of high ethical standards for bilingual volunteers and should state in their communications that such standards will be strictly enforced. It is also important to state upfront that all volunteers must be 18 years of age or older to participate in a court volunteer program.

QUALIFICATION OF BILINGUAL VOLUNTEERS

7. Courts should conduct a language skills analysis for bilingual volunteer positions to determine the domains of language (speaking, listening, reading, writing) implicated by the volunteer role, and the level of proficiency required in those domains.

Commentary:

The type and level of language ability needed depends upon the volunteer role. The court would expect an extremely high level of proficiency for a volunteer attorney working in two languages, including the ability to explain legal concepts (speaking and listening skills) and to both read and write in the second language. By contrast, a “court ambassador”—someone who can greet court users and point them in the right direction for their particular needs—would typically require only speaking and listening skills but would still need a high level of proficiency in those domains.

The American Council on the Teaching of Foreign Language (ACTFL) has developed a rating scale to describe levels of proficiency with a second language. The eleven levels of proficiency range from “Novice Low” for beginning language learners to “Distinguished” for those who are fully bilingual with outstanding facility in the foreign language. Proficiency levels may be identified for all four domains of language. It is important to note that these ratings indicate proficiency in a foreign language and do not provide a measurement of skills in either interpretation or translation.

Courts may want to review the detailed descriptions of each proficiency level and match them to the volunteer functions to determine the minimum level of competence required in the second language.³ The LAP recommends a minimum ACTFL proficiency level of “Intermediate Mid” for bilingual *employees* but acknowledges that a higher or a lower level may be appropriate depending on the circumstances, and indicates that courts should have discretion in establishing these standards of proficiency for their bilingual staff members.⁴ Because volunteers, like employees, may also have a wide variety of roles and responsibilities, including volunteer attorneys in a self-help center, courthouse ambassadors, and caregivers in a children’s waiting room, it is important to identify a proficiency level that takes into consideration the specific functions of the volunteer role.

8. Courts should develop an evaluation protocol to ensure that their bilingual volunteers have the appropriate levels of proficiency in the domains of language required for the volunteer role. This protocol may include a review of education and experience in the second language, formal language testing and an interview process.

Commentary:

Although the inclination may be to expend fewer resources on a volunteer program, and certainly budget constraints are a reality in every court, it is important to invest the resources necessary to

³ ACTFL Proficiency Guidelines 2012. (This document provides levels for all four language domains.) Available at: https://www.actfl.org/sites/default/files/pdfs/public/ACTFLProficiencyGuidelines2012_FINAL.pdf

⁴ *Strategic Plan for Language Access in the California Courts*, Judicial Council of California, 2015. Available at: http://www.courts.ca.gov/documents/CLASP_report_060514.pdf

ensure a highly qualified bilingual volunteer corps. For some court volunteer programs, there may be challenges in attracting interest from bilingual community members and therefore the court may feel pressure to accept anyone who is willing to give their time to the cause, regardless of language ability. It is important to guard against this tendency and hold prospective volunteers to high standards of language proficiency in order to ensure the long-term success of the program. The personnel time and resources invested in the evaluation and approval process for bilingual court volunteers will set the stage for a successful volunteer program. See additional information on establishing an evaluation rubric for bilingual volunteers in Appendix A.

TRAINING OF BILINGUAL VOLUNTEERS

9. In addition to the training and orientation provided to all court volunteers specific to the court and the volunteer program, bilingual court volunteers should receive four to six hours of instruction and support in the following, as they apply to the volunteer position:
 - a. Specialized terminology with standardized translations in the language that will be used in the volunteer role;
 - b. Use of specific tools developed to connect LEP court users with services;
 - c. Cultural competency; and
 - d. Ethical issues that arise when providing services in a second language.
10. Courts should plan periodic refresher training for bilingual volunteers, in order to introduce new tools for working with LEP court users and to update volunteers on any changes to ethical rules or statutory guidelines relevant to their work.

Commentary:

For additional information and best practices regarding training and training curricula, please see Appendix B.

SUPERVISION AND MANAGEMENT OF BILINGUAL VOLUNTEERS

11. Courts should ensure that volunteer roles are clearly delineated from those of staff, vendors and contractors, and other court representatives working with the public.
12. In order to avoid situations in which a volunteer might be asked to fulfill a role or perform a duty outside of their scope, it will be important for courts to identify and establish guidelines regarding which specific interactions are appropriate for volunteers and which are reserved to professional representatives of the court.
13. Bilingual volunteers should be regularly reminded of their ethical and professional responsibilities and should consult with a volunteer supervisor if they believe an assignment falls outside the scope of their duties. Supervisors should ensure that bilingual volunteers are not given assignments that would cause ethical or professional issues.

14. As part of the regular and ongoing process of evaluating their volunteer programs, courts should include an examination of whether communication is successfully achieved with the public in the second language.
15. Courts should be prepared to address complaints from the public regarding services received through a bilingual volunteer program, as they would with any service offered by the court.

Commentary:

Court volunteers, particularly those who are bilingual and bicultural, are critical to the state's language access implementation efforts and to the goal of developing and supporting a culture in which language access is considered a core service in every courthouse. However, ensuring *equitable* access means that some court functions are strictly reserved to licensed or certified professionals. Just as court volunteers are trained and instructed never to provide legal advice, bilingual volunteers should understand that they are not authorized to provide interpretation for courtroom proceedings when a certified interpreter is required. Bilingual volunteers may not be conscripted to fill a need when a gap in mandated language access services is identified. In addition, bilingual volunteers should understand the limits of their respective roles and be empowered to say no to any request for assistance that they believe exceeds these limits.

Courts should have a plan in place to address language access-based complaints regarding services rendered by bilingual volunteers, just as they would for complaints related to bilingual employees. This plan should contemplate both an internal response, which could include the identification of a need for additional training or higher qualifications for participation in the volunteer program, and an external response, indicating how the court will communicate with the complainant about an issue related to a court volunteer program.

Appendix A: Elements of an Evaluation Protocol for Bilingual Volunteer Applicants

Formal Language Testing

California Court Oral Proficiency Exam

One way to assess oral proficiency in a second language is through the administration of the California Court Oral Proficiency Exam.⁵ The Oral Proficiency Exam (OPE) is given by telephone at select testing locations throughout the state. The telephone interview is conducted by an interviewer who has been certified by the American Council on the Teaching of Foreign Languages (ACTFL) and produces a score that represents a proficiency level on the ACTFL rating scale.⁶

Other Assessments of Language Proficiency

The ACTFL organization directly offers a variety of assessments of language ability, including oral and written assessments, which can be administered via phone or delivered online.⁷ The oral proficiency tests are available in more than 100 languages, while the written exams are available in 18 languages.

Informal and Duty-Specific Language Testing

Instead of requiring independent verification of language proficiency, the court could develop duty-specific language testing, such as a brief written translation of a court document, or the provision of verbal instructions to guide a court user to the right office or courtroom. This would allow for a customized approach to language testing, as the court could focus its evaluation on the specific types of duties that would be performed by the volunteer and could test comprehension and communication with vocabulary that will be used in the course of the volunteer work (as opposed to general language testing that does not include legal or court terminology).

Other Approaches

There are other criteria that could be employed to determine whether a volunteer qualifies as a proficient speaker of another language, such as some number of years living in a country where that language is spoken or years of education in that language. This would require a resumé review and possible reference checks to verify information provided on a volunteer program application. If the court has employees available who are bilingual in English and the target language for the program, they could require volunteers to participate in an interview with the bilingual employee directly in the target language as a prerequisite for being approved to participate in the program. This approach would be most effective for volunteer positions that require oral language skills. The court could also consider asking prospective volunteers who have satisfactory security clearances to “shadow” current volunteers for several hours, thus enabling the prospective volunteer to get a sense of the work involved and potentially allowing anyone who has concerns about their own abilities to opt out of the application process. This

⁵ CA Court Oral Proficiency Exam Information and Downloads, Available at: <https://www.prometric.com/en-us/clients/California/Pages/CA-COURT-ORAL-PROFICIENCY-EXAM.aspx>

⁶ Inverted Pyramid Representing ACTFL Rating Scale with Major Ranges and Sublevels Including Distinguished, Available at: <https://www.actfl.org/sites/default/files/guidelines/ACTFLProficiencyLevels8.5x11.pdf>

⁷ Assessments and the ACTFL Testing Office, Available at: <https://www.actfl.org/assessment-professional-development/assessments-the-actfl-testing-office>

would also provide an early opportunity for the court to direct the volunteer to other, more appropriate activities, if the shadowing experience provides any indication that he or she is not well-suited to the role.

Pulling it all together

The most effective evaluation protocol will contain multiple measures of competency, such as some combination of the following:

- Proficiency at an appropriate level for the volunteer role on the California Court Oral Proficiency Exam or another third-party language skills evaluation;
- Satisfactory performance on an in-house language test targeted to the skills required for the volunteer role;
- Undergraduate degree in the second language and experience living in a country where the language is spoken;
- Satisfactory performance in an interview with an employee who is fluent in the second language who can evaluate the applicant's verbal skills.

The court may be satisfied that it can evaluate the skills of applicants with only one or two of these criteria, or it may decide to weight various elements, such as a language test, prior experience, and an in-person interview in making a final decision.

Appendix B: Training for Bilingual Court Volunteers

Standardized translations of key terms

Regardless of the volunteer role and the technical nature of the language involved, it is important to share any standardized translations for terms frequently used to represent the court, court personnel and legal processes. Some courts have developed glossaries of legal terms translated into key languages for their region. In addition, the California Courts Online Self-Help webpages offer a glossary of terms (in English and Spanish) related to areas of law and topics most relevant to self-represented litigants.⁸ Volunteer attorneys will want to review terminology for the specific areas of law in which they will provide support to LEP court users. Volunteers staffing a children's waiting room will want to know basic terms for the courtroom, the waiting room, and communicating about children and their needs. A court ambassador would need to be able to provide directions and would want to know the standardized way of referring to the clerk's office, the self-help center, the restrooms and other locations in the building.

Specific tools for working with LEP court users

The Language Access Plan Implementation Task Force, established in March 2015, has developed a series of specific resources for courts, including a model notice of available language access services, a language access complaint form and process, and a Request for Interpreter form. To the extent that these tools will be used in the volunteer work, bilingual volunteers should be trained to access and use them. As new tools are developed and rolled out, courts may want to provide additional training to volunteers to ensure uniform implementation and use of language access resources.

Cultural competency

The addition of bilingual court volunteers to programs designed to serve the public at large should assist in overcoming many issues of cultural misunderstanding, to the extent that the bilingual volunteers enjoy similar cultural backgrounds or have a basic understanding of the cultural underpinnings of the target LEP court users. However, this may not always be the case. For example, there are many fluent Spanish-speakers in California who may share little cultural heritage with those Spanish-speakers who seek assistance in the courts beyond the use of a common language. While there is no way to teach "culture" in a matter of hours, it is possible to impart strategies for encouraging volunteers to become more aware of their own cultural assumptions and biases and to guard against allowing these types of embedded thought processes and reactions to dominate or derail interactions with LEP court users.

Ethical issues

All court volunteers are subject to rules regarding confidentiality of information. Depending on the volunteer role, there may be additional standards to which volunteers must adhere. A key issue for all court personnel and volunteers is the risk of engaging in the unauthorized practice of law by providing legal advice. This issue can arise in various court settings, and bilingual volunteers must be trained specifically to identify those situations in which a line may be crossed and how to avoid them. Additionally, giving advice of any kind can be problematic for a court volunteer, particularly if that advice involves referring LEP court users to attorneys or other services outside the court. Court volunteers must avoid any situation in which they may find

⁸ See, <http://www.courts.ca.gov/selfhelp-glossary.htm>

themselves giving legal or other advice that is outside the scope of their duties. All volunteers, and bilingual volunteers in particular, will benefit from a clear explanation of the limits of their roles. This will help guard against the provision of advice and the performance of work that is reserved to court employees, such as formal interpretation of a court proceeding. Bilingual volunteers should also be trained to know when they need help in understanding the needs of a litigant and where to go to obtain that additional help.

Best Practices for Training Bilingual Volunteers to Participate in Programs Designed to Serve both LEP and non-LEP Court Users

Bilingual court volunteers who are recruited to participate in programs that serve the public at large would benefit from receiving a portion of their training in the target language. For example, a program that provides lay advocates to support victims of domestic violence would require education on the nature and manifestation of domestic violence and the role of the victim advocate in the legal process. For those volunteers who will work directly with victims in a second language, a best practice is to provide some or all of that education directly in the target language of the program.

Another example is the Court Appointed Special Advocate (CASA), who receives at least 30 hours of training before being assigned to work with youth in the foster system. A bilingual CASA would need to complete the regular training, which focuses on the dependency system and the role of the advocate, in addition to specific language-based training, as outlined above. To the extent that any of the standard training curriculum can be provided directly in the second language, this will assist with teaching key terminology, as well as allowing for an in-language discussion of critical elements of cultural competency.

Appendix C: Sample Job Description, Criteria for Approval and Training Plan for a Bilingual Court Greeter

Job Description

The bilingual Spanish court greeter is tasked with performing a critical customer service role at the entrance to the courthouse. The greeter is posted at a desk just beyond the security station and provides information and directions to all members of the public coming to court. The bilingual Spanish greeter is specifically available for LEP Spanish-speakers who need assistance. However, all court greeters will be versed in the use of the “I-Speak” card and will be able to connect speakers of many different languages to resources within the court.

Qualifications

Court greeters are the customer service representatives for our court. They must be committed to helping the public and have a positive attitude and a friendly, outgoing manner. Court greeters must be at least 18 years old and able to pass a security clearance to work in the court. We request that our court greeters be willing to devote 16 hours (two full court days, or four four-hour shifts) per month to this volunteer role. Volunteers must participate in a court orientation and a half-day training for the position.

Bilingual Spanish court greeters must have oral proficiency in both English and Spanish. This will be demonstrated through an interview in which prospective volunteers will be asked to participate in two scenarios conducted in Spanish. We also require bilingual volunteers to participate in an additional half-day training in order to acquire specialized vocabulary in Spanish and prepare to meet the needs of the LEP Spanish-speaking population who come into the courthouse.

All volunteers with ABC Superior Court must meet the professional and legal standards for participation in a volunteer program and will be required to hold themselves to the highest ethical standards in their representation of the court.

Training Plan

For all court greeter volunteers:

- ABC Superior Court Orientation (video, to be accessed online)
- In-person training
 - 2 hours: Role of the court greeter, basic information on the layout of the building, location of clerk’s office, payment desk and various courtrooms, use of the “I-Speak” card, use of the court’s telephonic interpreter service
 - 2 hours: basic legal terminology, legal processes handled on-site and how to direct court users to the appropriate location for their needs
- New volunteers will shadow a current court greeter for two hours before accepting their first shift

For bilingual Spanish volunteers (in addition to the above requirements):

- ABC Superior Court Orientation in Spanish (video, to be accessed online)
- In-person training
 - 1 hour: legal terminology in Spanish, use of glossary
 - 2 hours: information about materials available in Spanish (Judicial Council forms, local forms, online resources including videos, other informational materials), process for requesting an interpreter, complaint form and process
 - 1 hour: instruction in ethical and cultural considerations for bilingual volunteers

Appendix D: Existing Bilingual Volunteer Programs

Program Name: Keeping Kids Safe Program

County: Orange

Sample Volunteer Job Description and Qualifications: Supervised Visitation Monitor
Individuals will perform services at a non-profit supervised visitation service provider in Orange County. The goal of this program is to ensure that the Court's directives and program rules are followed. Duties may include: monitoring the interaction between a non-custodial parent and child(ren); keeping written records of facts observed; facilitating appropriate interaction between all participants and monitoring their safety; and maintaining confidentiality and neutrality. Training will be provided in the above areas.

Qualifications:

Good writing and interpersonal communication skills.

Minimum age of 18 or older (age 21 years of age or older for Supervised Visitation Monitor).

A minimum of 10 hours per week for 6 months; days, evenings, and/ or weekends.

Spanish/English and Vietnamese/English Bilingual skills are desirable.

More information available at: <http://www.occourts.org/directory/family-court-services/kks/>**Program Name:** Kern County Docents

County: Kern

Sample Volunteer Job Description: Docent

Docents make the courts more "user friendly" to court patrons. They answer basic questions and provide directions. This personal assistance helps reduce anxiety for court patrons who often come to the courts during a crisis situation. Many cannot afford an attorney. They may not be sure where to go or what to do. They may find the courts intimidating and confusing despite the best efforts of court personnel.

Sample Volunteer Commitment:

Most docents are willing to commit to a three-hour shift once weekly. Shifts are scheduled from 8:00 AM to 11:00 AM and from 11:00 AM to 2:00 PM at our 1215 and 1415 Truxtun Avenue facilities and from 7:30 to 10:30 and from 12:30 to 2:30 p.m. at the Juvenile Justice Center.

Coverage for periodic absences is usually coordinated between the docents.

More information available at: <https://www.kern.courts.ca.gov/general/docents> **Program Name:** Monterey Court Greeters Program

County: Monterey

Sample Notice Seeking Volunteers (posted on www.volunteermatch.org):

We are seeking volunteers who are customer-service oriented and enjoy assisting others who are in difficult situations.

Volunteers for the Court will be greeters in our Court lobby to assist those waiting in line to understand what they need and if we can, in fact, assist them. We also need a receptionist in the Salinas Court to sit at the main desk and assist the public with various types of information, e.g., directions, case information. We provide training for our volunteers. Bilingual skills (English/Spanish) are highly desirable. Volunteers are a vital part of the service we provide.

More information available at: <http://www.volunteermatch.org/search/org74045.jsp>