



# JUDICIAL COUNCIL OF CALIFORNIA

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## JOINT WORKING GROUP FOR CALIFORNIA'S LANGUAGE ACCESS PLAN

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#### MINUTES OF OPEN MEETING

December 5, 2014

12:15 to 1:45 p.m.

Conference Call

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**Advisory Body Members Present:** Hon. Maria P. Rivera, Co-Chair, Hon. Manuel J. Covarrubias, Co-Chair, Hon. Steven K. Austin, Mr. Kenneth W. Babcock, Mr. Jaeis Chon, Ms. Tracy Clark, Ms. Debra A. Donson, Hon. Dennis Hayashi, Ms. Janet Hudec, Ms. Kristine Kussman, Ms. Ginger Lamar, Mr. Bao Luu, Ms. Lisa McNaughton, Ms. Thuy Thi Nguyen, Ms. Ivette Peña, Hon. Rebecca S. Riley, Mr. José H. Varela

**Advisory Body Members Absent:** Ms. Oleksandra Johnson, Hon. Miguel Márquez, Mr. Michael Roddy, Ms. Christina M. Volkens, Hon. Laurie D. Zelon

**Others Present:** Ms. Dianne Bolotte, Ms. Carmen Castro-Rojas, Ms. Valeria DaSilva-Sasser, Mr. Douglas Denton, Mr. Alan Herzfeld, Ms. Bonnie Hough, Ms. Cristina Llop, Ms. Anne Marx, Ms. Angeline O'Donnell, Ms. Catharine Price, Ms. Elizabeth Tam

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#### OPEN MEETING

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##### Call to Order and Roll Call

The Co-Chairs called the meeting to order at 12:15 p.m., and took roll call.

##### Approval of Minutes

The advisory body reviewed and approved the minutes of the October 21–22, 2014, Joint Working Group for California's Language Access Plan meeting.

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#### DISCUSSION AND ACTION ITEMS (ITEM 1)

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##### Item 1

##### Strategic Plan for Language Access in the California Courts (Action Required)

The Joint Working Group reviewed and discussed final changes to the revised *Strategic Plan for Language Access in the California Courts* for presentation to the Judicial Council. A meeting handout with additional proposed changes was sent out to all members prior to the meeting, and the handout was posted to the Joint Working Group's web page ([www.courts.ca.gov/LAP.htm](http://www.courts.ca.gov/LAP.htm)).

Judge Covarrubias thanked everyone on the Joint Working Group for their dedication and hard work on this project. Judicial Council staff and our consultant Cristina Llop have again dedicated a great deal of time and effort to revise the plan following formal public comment and the

October meeting. The Joint Working Group is very close to meeting its goal to present a final plan to the Judicial Council for its review and hopeful approval in January 2015.

Justice Rivera highlighted major changes to the revised plan: language with a more positive tone toward overcoming the challenges of improving language access was added to the plan; language regarding implementation was moved to the front of the plan; phrasing in of recommendations was revised if appropriate after the October 21–22 meeting; and a section on concepts utilized throughout the revised plan was added at pp. 26–28.

Joint Working Group members then provided and discussed their proposed final changes to the revised plan, which are summarized below in the order that they appear in the revised plan:

- Page 10, 4th line: Typo: “e” missing in “Implementation”
- Page 10, 6th line: Typo: Change “would would” to “would”
- Pages 27, 42 and 43: JWG approved the language added regarding court-ordered, but not court-operated, events.
- Page 36, per meeting handout: Correction approved for Goal 2 Statement to say, “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.”
- Page 40: JWG approved wording of Recommendation No. 8.
- Page 43, Recommendation No. 11: Edited with JWG agreement to read: “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)”
- Page 48, Recommendation No. 16: Correct spelling to “interpreting”
- Page 52, Corrections (full paragraph): Change “translators” to “interpreters”, and remove “should” so it says “... other factors that preclude the use ...”
- Page 53, Recommendation No. 21: Remove “create risks for LEP court users”. Agreed and removed.
- Page 53, Recommendation No. 22: Discussion regarding references to “opposing,” and whether “exigent circumstances” needs additional explanation. The JWG agreed that the plan adequately explains and states the requirements for qualified interpreters throughout. Correction made per group to say: “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.”
- Page 58, Recommendation No. 29: Concern about MOUs and providing that interpreters and/or staff help in clerk’s offices and self-help center. Agreed to add “and appropriate” to address the fact that a court interpreter may or may not, per a MOU, be appropriate in given settings.
- Page 59, Recommendation No. 31: Concern about “fee-for-service”... intent is to have it be court-provided, so JWG agreed that text “court-paid” be added to recommendation.

- Page 60, Recommendation No. 34: Unclear what is meant by “outside court proceedings.” Agreed to amend language to “services at relevant points of contact other than court proceedings.”
- Page 88, Recommendation No. 60: Agreed to add “including, but not limited to, judicial officers, court administrators, court interpreters, legal services providers, and attorneys that commonly work with LEP court users” in the membership of the Implementation Task Force.
- Page 89, Recommendation No. 64: Agreement to edit the recommendation to reflect that, once created, the intent is to communicate information regarding initiation of the process.
- Page 93, Recommendation No. 75: JWG agreement to have the following wording: “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 [FN], 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)”

Justice Rivera then made a motion that pending implementation of the corrections that were discussed and agreed upon today, the final plan be approved for presentation to the Judicial Council. The members were individually polled for their vote and all Joint Working Group members present voted yes to approve the final plan for presentation to the Judicial Council.

Justice Rivera and Judge Covarrubias again thanked the Joint Working Group members, Judicial Council staff and Cristina Llop for their dedication and hard work. They recognized that the Language Access Plan received very valuable information and suggestions from a wide array of stakeholders and thanked all members of the public, language access providers including court interpreters, legal services providers, judicial officers and court administrators across the state. The Joint Working Group appreciates their participation and contributions to the plan.

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## **A D J O U R N M E N T**

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There being no further business, the meeting was adjourned at 1:45 p.m.

Approved by the advisory body on December 28, 2014.