

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SP21-01

Title

Recommended Guidelines and Minimum Specifications for Video Remote Interpreting (VRI) for Spoken Language Interpreted Events

Action Requested

Please review and submit comments by February 16, 2021

Proposed Effective Date

May 21, 2021

Proposed by

Hon. Sheila Hanson, Chair
Information Technology Advisory
Committee

Contact

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Executive Summary

The recommended guidelines and minimum specifications for video remote interpreting (VRI) for spoken language interpreted events have been updated under the direction of a working group of the Information Technology Advisory Committee (ITAC). In response to the COVID-19 pandemic, courts have implemented remote video solutions to ensure access to justice and protect the health and safety of court staff, court users, and judicial officers. The VRI guidelines for spoken language have been updated to support VRI in both physical and virtual courtrooms, and to provide guidance to courts and the public to ensure remote interpreting allows limited English proficient (LEP) court users to fully and meaningfully participate in court proceedings.

Background

In January 2015, the Judicial Council of California adopted the *Strategic Plan for Language Access in the California Courts* (Language Access Plan, or LAP) to provide recommendations, guidance, and a consistent statewide approach to ensure language access throughout the courts. Two main components of the LAP are to increase qualified interpreter services in any court-ordered, court-operated proceeding as well as to increase the availability of language access services to all court users. The use of technological solutions to expand such services is a component of this plan and is specifically addressed by Goal 2 of the LAP, which highlights the need to incorporate technology to provide access in courtroom proceedings through the provision

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. It is circulated for comment purposes only.

of remote interpreting and the establishment of recommended minimum technology specifications to facilitate its use.

The revised guidelines were adapted from the *Strategic Plan for Language Access in the California Courts*, which was adopted by the Judicial Council on January 22, 2015. The guidelines were last revised in March 2019, following a VRI pilot conducted in 2018.

The Proposal

In response to the COVID-19 pandemic in 2020, many California courts have implemented remote video solutions to ensure access to justice and protect the health and safety of court staff, court users, and judicial officers. The VRI guidelines for spoken language have been updated to reflect available technologies, current practices, and to provide guidance to the courts and public regarding practical steps to support successful video remote interpreting for spoken language. The guidelines provide key and other considerations for courts to support VRI, including proper training and recommended minimum technology specifications.

Benefits of VRI include:

- Increased access to qualified (certified and registered) interpreters, especially in languages of lesser diffusion.
- Allowing court users to see and talk to an interpreter in their language without extended delay, despite not being in the same room, or even the same city.
- Allowing court users to resolve short, non-complex, and uncontested hearings, even when on-site interpreters are unavailable, lowering the need to reschedule court visits.
- Allowing private and confidential VRI conversations, similar to in-person interpreting.

Following public comment, the revised guidelines will be presented to the Advisory Committee on Providing Access and Fairness, ITAC and the council for review and approval.

Alternatives Considered

These are suggested guidelines for remote interpreting for spoken language based on current best practices and, as such, should be subject to updating and revision by the Judicial Council to accommodate advances in technology that will support the delivery of interpreter services to LEP court users and help ensure quality communication with LEP court users.

Fiscal and Operational Impacts

The Governor's 2020 Budget Act provided funding to support trial courts for court interpreter services and establishment by the Judicial Council of a VRI program. Due to the COVID-19 pandemic, courts have successfully used VRI to provide remote interpreter services for hearings. The revised VRI guidelines will help to build on and standardize these efforts including establishment of a statewide VRI program.

Request for Specific Comments

In addition to comments on the proposed policy concepts as a whole, ITAC is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. *(Draft) Recommended Guidelines and Minimum Specifications for Video Remote Interpreting (VRI) for Spoken Language Interpreted Events* (2021)
2. *Strategic Plan for Language Access in the California Courts* (2015),
https://www.courts.ca.gov/documents/CLASP_report_060514.pdf
3. *Recommended Guidelines for Video Remote Interpreting (VRI) for Spoken Language Interpreted Events* (2019),
<https://www.courts.ca.gov/documents/vri-guidelines.pdf>

CALIFORNIA JUDICIAL BRANCH

Recommended Guidelines and Minimum Specifications for Video Remote Interpreting (VRI) for Spoken Language- Interpreted Events

XX, 2021



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The *Recommended Guidelines and Minimum Specifications for Video Remote Interpreting (VRI) for Spoken-Language Interpreted Events* was adopted by the Judicial Council on XX, 2021. This document was prepared under the direction of a working group of the Information Technology Advisory Committee, which reviewed and updated the guidelines in 2020-21. These guidelines were adapted from the *Strategic Plan for Language Access in the California Courts*, which was adopted by the Judicial Council on January 22, 2015. The guidelines were last revised in March 2019, following a VRI pilot conducted in 2018.

For electronic copies of these guidelines and for more information, visit www.courts.ca.gov/VRI.htm.

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DRAFT

Introduction

California is home to a very diverse population, with over 200 languages and dialects spoken within its borders. Approximately 7 million of its residents are limited English proficient (LEP), meaning they read, write, speak, or understand English “less than very well.” Federal laws, such as Title VI of the Civil Rights Act of 1964 and Executive Order 13166, ensure that these individuals have meaningful access to any program or activity receiving federal financial assistance by prohibiting discrimination on the basis of race, color, or national origin. Accordingly, LEP individuals must be able to access the court system in a meaningful manner. In an effort to address this need, in January 2015, the Judicial Council of California adopted the [Strategic Plan for Language Access in the California Courts](#) (Language Access Plan, or LAP), which (1) provides the foundational components for ensuring that all LEP court users in the state have equal access to justice, and (2) sets forth guidance and recommendations to help courts expand their language services at the local court level. Two main components of the LAP are to increase qualified interpreter services in any court-ordered, court-operated proceeding as well as to increase the availability of language access services to all court users. The use of technological solutions to expand such services is a component of this plan and is specifically addressed by Goal 2 of the LAP, which highlights the need to incorporate technology to provide access in courtroom proceedings through the provision of remote interpreting and the establishment of recommended minimum technology specifications to facilitate its use.

About VRI

In order to achieve the goal of universal provision of interpreters in judicial proceedings, the LAP notes that 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. To increase LEP court user access to qualified interpreters, the LAP allows for the proper use of video remote interpreting (VRI) in the courts:

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.

The LAP also notes that the quality of interpretation is of paramount importance and should never be compromised. In response to the COVID-19 pandemic in 2020, many California courts implemented remote video solutions to ensure access to justice and protect the health and safety of court staff, court users, and judicial officers. Today, courts have access to a wide variety of technology solutions that enable remote access to court proceedings, including off-site location of the interpreter, the LEP party, jail staff, judge or attorney. In both physical and virtual courtrooms, the quality of the interpretation continues to be of paramount importance and should never be compromised. If the effectiveness of the communication is in no way compromised and certain controls are in place, remote interpreting provides an important and viable way in which to provide LEP court users with immediate access to a qualified interpreter. As described in this document, remote interpreting allows LEP court users to fully and meaningfully participate in court proceedings when the court meets appropriate minimum specifications and provides training and resources for court staff and court users.

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 wait 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, dismissals for failure to meet court deadlines,

and 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 among 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.

Remote access is not limited to providing interpreter services. It is a means to provide a variety of services in locations that are not near a courthouse or not easily accessible. For example, where satellite courts have been closed or where jails are located some distance from courthouses, remote technology has allowed courts to provide access and service to those locations. It is imperative that courts, and the branch as a whole, include remote access technology solutions in language access planning efforts.

Any introduction of remote interpreting in the courtroom will have to include, in advance, appropriate training and education for all personnel who will be involved in the court proceedings. Judicial officers, interpreter coordinators and other court staff will need to know how to use the available technology. This includes how to launch the programs and how to use the technology during remote court proceedings. Judicial officers in particular will have to understand the logistics of the remote interpretation process to ensure they are managing the courtroom and the proceedings appropriately. Similarly, interpreters will need training on the use of the technologies and platforms utilized by the court, as well as ensuring that audio is clear to adequately provide accurate and effective interpretation. As appropriate, attorneys, bailiffs, sheriffs and jail staff must also receive training and instructional material on the use of adopted platforms and technologies. Similarly, court staff must be trained and available to troubleshoot and address any technical problems with the equipment as the need arises.

LEP court users should also be informed of how to use the court's technologies and platforms. This may include translated instructions and recorded online orientations, etc. The LEP court user should be advised of the options for participation and the minimum technological

specifications required to support those options (e.g. telephone, Wi-Fi, etc.). The court should make alternative solutions available (e.g., telephonic interpretation or workstations at the court) if the LEP court user does not have access to the minimum technology necessary for effective virtual participation as described in this document.

About These Guidelines

These are suggested guidelines for remote interpreting for spoken language based on current best practices and, as such, should be subject to updating and revision by the Council to accommodate advances in technology that will support the delivery of interpreter services to LEP court users and help ensure quality communication with LEP court users.

Considerations and Guidelines for Video Remote Interpreting in Court Proceedings

When using VRI meeting minimum technology specifications and providing training are critical. Additionally, prior to selecting VRI for a particular courtroom event, the court should adhere to additional considerations and guidelines as described below.

Key Considerations

A. Minimum Technology Specifications for Remote Interpreting

When using VRI in any proceeding, the court should ensure that it has the equipment and technology to provide high-quality communications, regardless of the physical location of the participants. (See Appendix A for Minimum Technology Specifications).

B. Training

Prior to conducting VRI proceedings, the court should provide all persons participating in the VRI event adequate training and orientation in the use of the equipment, interactions and interpreting protocols.

Considerations for VRI for a court event

The initial analysis for determining whether a court proceeding is appropriate for VRI may be made by the interpreter coordinator, judicial officer, and/or court staff. The interpreter coordinator, judicial officer, and/or court staff should consider all of the following when using VRI:

- 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.
- Whether the proceeding is of an immediate nature, such as arraignments for in-custody defendants, bail reductions, and temporary restraining orders.
- Whether the LEP or other parties are present in the courtroom or appearing remotely.
- 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 to another interpreter who then provides the interpretation in English. (The need for a relay interpreter does not preclude the use of VRI but might necessitate the presence of at least one of the interpreters in the courtroom or a combination of remote technologies.)
- Whether the LEP parties require different interpreters.

Guidelines for using VRI in a court proceeding

1. Need to Interrupt or Clarify

When using VRI, 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 VRI is not facilitating effective communication due to technology issues or other reasons.

2. VRI Time Management

The court should be mindful that in remote interpreting, there may be additional lag time needed for interpreting and relay interpreting. In addition, remote interpreting may include increased fatigue and stress. Events involving remote interpreting should have shorter sessions or more frequent breaks.

3. Participants Who Must Have Access

The remote interpreter's voice must be heard clearly throughout the courtroom or in a remote courtroom session, and the interpreter must be able to hear all participants, whether they are in person or appearing remotely.

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

VRI is generally preferred over telephonic interpreting that does not provide visual cues. Several remote platforms provide options for confidential conversations with the LEP litigant, attorney and interpreter. Remote technologies may provide sight translation, consecutive, and simultaneous interpretation options.

5. Documents and Other Information

The court should 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 VRI. It is the intent of the language access plan to expand the availability of certified and registered interpreters through the use of VRI. All interpreters performing VRI should be familiar with—and are bound by—the same professional standards and ethics as onsite court interpreters.¹

¹ The requirements for provisionally qualifying an interpreter can be found in Government Code section 68651(c) and California Rules of Court, rule 2.893.

7. Data Collection

- a. Courts using VRI in the courtroom, or in a remote courtroom session, should monitor the effectiveness of their technology and equipment. This may include periodic surveys and/or a method for feedback and complaints by in person and remote participants.
- b. For purposes of supporting funding requests, courts should collect data regarding VRI on an ongoing basis (e.g., number of interpreter sessions provided, number of languages, and quality of VRI solutions).
- c. The Court Interpreter Data Collection System (CIDCS) allows courts to track VRI as the method of interpretation. The data collected in CIDCS is used to support Budget Change Proposals, including augmentation requests for the Court Interpreter Fund and other language access projects, including funding for VRI equipment.

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 the default setting for various platforms displays the speaker, the courts may pin various courtroom participants to remain in view. Cameras on all stakeholders may be beneficial but may not be essential. A speakerphone is not recommended unless it accommodates the other requirements of these guidelines, 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 the ability to speak confidentially with their LEP client with the assistance of an interpreter. This could be accomplished using a combination of personal communication devices such as smartphones, tablets, headphones, and/or individual handsets, depending on the physical location of each participant. Technology used to support virtual courtroom sessions must include some sort of breakout room or conference call functionality to provide for private conversations.

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 or connectivity issues (for example, very short matters via a telephone) in which consecutive interpreting is adequate to ensure language access. When using consecutive interpreting, the court should advise participants to speak clearly and in short sentences to help facilitate accurate interpretation.
4. Recognizing that courts may implement very different technical solutions for VRI, it is critical that prior to the start of an interpreted event all parties, judicial officers, court staff, jail staff, and officers of the court (including attorneys and interpreters) know how to allow for confidential conferencing when needed. For example, how to launch a virtual breakout room, add participants, and rejoin the hearing.
5. All participants, including the LEP party and the interpreters, need to check microphone and/or camera clarity before beginning interpretation. In addition, all participants, including the LEP court users and interpreters should also check their phone or internet connectivity to ensure adequate signal.
6. Both VRI interpreters and courts should receive training and be knowledgeable of general steps to address technical issues. If available, the courts should also have technical support readily available as needed.
7. Clear, concise operating instructions should be available to interpreters, courtroom staff, jail staff, and LEP court users regarding any technical specifications or procedures related to remote interpretation.

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 for a complete discussion of using VRI with ASL-interpreted events.

Appendix A—Minimum Specifications for Remote Interpreting

The following table provides guidelines for providing remote interpretation to LEP court users in court sessions that are initiated in a physical courtroom or a virtual courtroom. Solutions will need to support both consecutive interpretation (in open court when the speaker pauses after one or two sentences and allows the interpreter to interpret from the source language to the target language before the speaker continues on with their speech) and simultaneous interpretation (when the interpretation from the source language to the target language happens in real time). Solutions will also need the capability for breakout rooms that allow confidential conversations between the LEP, attorney and court interpreter.

Court users will receive instructions from the court on how to participate in remote hearings if they are appearing remotely. Court users may participate in remote hearings by using their smartphone or computer if the device has a microphone and internal or external video camera, and access to internet and Wi-Fi that supports reliable connectivity for sound and video image. Remote video connections can also be provided from a location within the courthouse for both the LEP and/or an interpreter (e.g., workstations at the courthouse that allow the LEP or interpreter to participate remotely via video). If the LEP can only connect using audio only (i.e., a phone without smartphone functionality and no video), then a telephone number will be provided to the LEP by the court for participation.

Courts will need to ensure that platforms used for remote hearings ensure data security for the court.

Court Information Technology (IT) personnel are highly encouraged to contact their assigned Judicial Council LAN/WAN design engineer for technical advice on network equipment and internet circuits. If court personnel are not sure who their design engineer is, they can e-mail LANWAN@jud.ca.gov and the appropriate team member will respond.

Minimum Specifications for Remote Interpreting

The following table provides guidelines for various scenarios to provide consecutive and simultaneous interpretation to LEP court users in court sessions that allow for remote appearances that are either:

1. Initiated in a physical courtroom with both in-person and remote participation, or
2. A virtual courtroom session, where all participants are remote.

All scenarios require a remote video solution that provides the following functionality:

- Breakout rooms for interpreters and LEP court participants to have confidential discussions with attorneys.
- Ability for the interpreter to toggle back and forth between a connection to speak with the LEP and to the court in English and the required language (consecutive interpreting) and to listen to proceedings and to speak with the LEP only in their required language (simultaneous interpreting).

1. Physical Courtroom with In-person and Remote Participants

Scenario	LEP Connection	Interpreter Connection	Audio
Interpreter and LEP Remote	<i>Remote video*</i>	<i>Remote video*</i>	<i>Internal (courtroom microphones) and external (remote session) audio connected to the courtroom public address (PA) system so all participants can be heard</i>
Interpreter in Person, LEP Remote	<i>Remote video*</i>	<i>Tablet device and headset to join the remote video session from within the courtroom</i>	
LEP in Person, Interpreter Remote	<i>Tablet device and headset to join the remote video session from within the courtroom</i>	<i>Remote video*</i>	

2. Virtual Courtroom with all Remote Participants

Scenario	LEP Connection	Interpreter Connection	Audio
Interpreter and LEP Remote	<i>Remote video*</i>	<i>Remote video*</i>	<i>Provided via remote video solution</i>

** If the LEP can only connect via telephone (no video), then a telephone number will be provided to the LEP by the court for participation. A remote video connection could be provided from a location within the courthouse for both LEP and/or an Interpreter.*