

Fact Sheet: Language Access in the U.S. Court System

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In 2000, President Clinton issued an Executive Order, requiring federal agencies to ensure that their grantees comply with Title VI and provide meaningful access to federally funded programs and services for LEP individuals. The Department of Justice issued a Guidance on June 18, 2002 discussing the requirement to take reasonable steps to provide meaningful access to LEP individuals. Both state and federal court systems as recipients of federal government funds need to provide access to justice and court services for persons with limited English proficiency (LEP).

Barriers Court Must Overcome in Providing Language Access and Proposed Solutions

The National Center for State Courts and the Center for Court Innovation have identified barriers that LEP victims, witnesses and litigants experience in access court services. These include:

1. Access to interpreters and language services outside of the courtroom remains limited due to increased demand for interpretation in official court proceedings.¹
2. Primarily in-person interpreters who are certified or otherwise qualified by the court currently provide Court interpretation services, but too often courts rely on unqualified persons to interpret in court.²
3. For out-of-court proceedings, 2/3's of all respondents reported that family members, friends, advocates, or other non-credentialed persons serve as interpreters often.³

Recommended steps that courts can take to overcome language access barriers:

1. Courts can help overcome these barriers and reduce bias by implementing culturally responsive practices, including enhanced language access.⁴
2. Training for interpreters on domestic violence and sexual assault issues in a significant area of need.⁵
3. Courts need to publicize their language access plans and extend outreach to stake holders in developing and implementing the plans.⁶
4. Courts need to develop protocols for monitoring quality of language access services and educate litigants, justice system partners, and service providers on existing mechanisms for advising the court about service deficiencies.⁷
5. Potential litigants need access to information about the availability of court language access services from sources outside the courthouse.⁸

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6. The use of video remote interpretation can increase access to qualified court interpreters both in court proceedings and in out-of-court proceedings.⁹

The U.S. Department of Justice issued guidance and federal regulations directing courts receiving federal financial assistance to provide meaningful access to LEP persons. The following are key areas to address and ensure equitable and meaningful access to LEP individuals:¹⁰

1. Qualified interpreter services provided by the court for all court and court-annexed proceedings, “whether civil, criminal, or administrative including those presided over by non-judges.”¹¹
2. When providing qualified interpreter services to LEP individuals, the DOJ expects it to be done at no cost to the persons involved.¹²
3. Meaningful language access for LEP persons means access to interpreter services in court functions conducted outside the actual courtroom, such as parole rooms, alternative dispute resolution programs, *pro se* clinics, etc.¹³
4. Courts should also ensure LEP persons have access to effective communication with court appointed or supervised professionals, such as criminal defense counsel, child advocates, or guardians *ad litem*.¹⁴
5. Court services & programs: clerks’ officers, self-help centers, signs, websites, forms.¹⁵
6. Civil court proceedings including family, juvenile and probate courts.¹⁶ This includes all all non-specialized courts that hear domestic and sexual violence, child abuse, human trafficking and commercial sexual exploitation of children.¹⁷
7. Criminal court proceedings for victims, defendants, and witnesses.¹⁸
8. Qualified interpreters must be made available to LEP witnesses, victims, and other litigants¹⁹ and persons whose interests are affected by the court case including e.g., parents, grandparents or guardians.
9. Outside Courtroom: includes access to probation and parole officers and to all court complaint systems.²⁰

The DOJ acknowledges the time and effort necessary to create effective, long-lasting systems for competent interpretation, but expects courts will continue to progress and strive for full compliance in policy and practice.²¹

¹ *Effective Court Communication: Assessing the Need for Language Access Services for Limited English Proficient Litigants in Domestic Violence, Sexual Assault, Dating Violence, and Stalking Cases*, NAT’L CTR. FOR ST. CT., pg. 6 (Oct. 2017)
https://www.courtinnovation.org/sites/default/files/documents/LEP%20Needs%20Assessment%20Report_FIN_AL.pdf

² *Id.* at 4.

³ *Id.* at 7.

⁴ *Access to Justice in Domestic Violence and Sexual Assault Cases*, CTR. FOR CT. INNOVATION,
<https://www.courtinnovation.org/access-justice-domestic-violence>

⁵ *Effective Court Communication: Assessing the Need for Language Access Services for Limited English Proficient Litigants in Domestic Violence, Sexual Assault, Dating Violence, and Stalking Cases*, NAT’L CTR. FOR ST. CT., pg. 6 (Oct. 2017)

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⁶ *Id.* at 7.

⁷ *Id.* at 8.

⁸ *Id.* at 9.

⁹ *Id.* at 10.

¹⁰ Letter from Thomas E. Perez, Assistant Attorney General to State Court Administrators (August 16, 2010), U.S. DEP'T OF JUSTICE CIV. RTS. DIV., pg. 1, <https://niwaplibrary.wcl.american.edu/pubs/lang-access-doj-courts-letter>.

¹¹ *Id.* at 2.

¹² *Id.*

¹³ *Id.* at 3.

¹⁴ *Id.*

¹⁵ *Language Access in State Courts*, U.S. DEP'T OF JUSTICE CIV. RTS. DIV., pg. 5 (Sept. 2016), <https://www.justice.gov/crt/file/892036/download>.

¹⁶ *Id.* at 6.

¹⁷ *Effective Court Communication: Assessing the Need for Language Access Services for Limited English Proficient Litigants in Domestic Violence, Sexual Assault, Dating Violence, and Stalking Cases*, NAT'L CTR. FOR ST. CT., pg. 6 (Oct. 2017)

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¹⁸ *Id.* at 6.

¹⁹ *Id.* at 7.

²⁰ *Effective Court Communication: Assessing the Need for Language Access Services for Limited English Proficient Litigants in Domestic Violence, Sexual Assault, Dating Violence, and Stalking Cases*, NAT'L CTR. FOR ST. CT., pg. 6 (Oct. 2017)

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