



U.S. Department of Justice

Civil Rights Division

*Federal Coordination and Compliance Section-NWB
950 Pennsylvania Ave, NW
Washington, DC 20530*

SEPTEMBER 12, 2016

CERTIFIED, RETURN-RECEIPT REQUESTED

Hon. Carolyn B. Kuhl
Presiding Judge
Superior Court of California, County of Los Angeles
111 North Hill Street
Los Angeles, CA 90012

Sherri R. Carter
Executive Officer/Clerk
Superior Court of California, County of Los Angeles

Re: Complaint No. 171-12C-31
Investigation of the Superior Court of California, Los Angeles County and
Judicial Council of California

Dear Presiding Judge Kuhl and Ms. Carter:

Over the past five years, the Superior Court of California, County of Los Angeles (LASC) and the United States Department of Justice through its Federal Coordination and Compliance Section (FCS) of the Civil Rights Division and the United States Attorney's Office for the Central District of California (collectively, DOJ) have worked collaboratively to address the issue of providing meaningful access to LASC services for limited English proficient (LEP) litigants. We are greatly appreciative of LASC's cooperation during the investigation. LASC staff has been responsive, courteous, and open to dialogue with DOJ to solve challenges and identify solutions throughout the course of this investigation.

This letter and attached agreement describe the steps LASC has taken, and has agreed to take, to reach the goal of providing LEP individuals with meaningful access to LASC services. LASC's efforts will provide LEP court users with free qualified interpreters in all court proceedings and appropriate language assistance services in its court operations. In order to meet this goal and conclude DOJ's investigation, LASC has agreed to take the steps outlined in this letter and attached memorandum.

Legal Authorities

Recipients of federal financial assistance from the Department of Justice are prohibited from discriminating on the basis of race, color, or national origin under Title VI of the Civil Rights Act of 1964 (Title VI).¹ 42 U.S.C. §§ 2000d to 2000d-7; *see also* 28 C.F.R. Part 42 Subpart C (Title VI implementing regulations). LASC is subject to the requirements of Title VI because it is part of the unified state court system of California, which receives federal financial assistance, including from the Department of Justice.

In order to comply with Title VI and its implementing regulations, recipients of federal financial assistance must take reasonable steps to provide meaningful access to LEP individuals. The Supreme Court decided over three decades ago that a federally funded recipient's denial of education to a group of non-English speakers violated Title VI and its implementing regulations. *See Lau v. Nichols*, 414 U.S. 563, 568-69 (1974). As the Supreme Court explained, “[i]t seems obvious that the Chinese-speaking minority receive fewer benefits than the English-speaking majority from respondents’ school system which denies them a meaningful opportunity to participate in the educational program—all earmarks of the discrimination banned by” Title VI regulations.² *Id.* at 568. Title VI coordinating regulations also expressly require recipients to translate written materials for LEP individuals. *See Colwell v. Dep’t of Health and Human Servs.*, 558 F.3d 1112, 1126 (9th Cir. 2009) (citing 28 C.F.R. § 42.405(d)(1)) (“[W]ritten translation is mandated . . . by the 1976 DOJ regulation”).

Under Executive Order 13166, each federal agency that extends financial assistance is required to issue guidance explaining the obligations of their recipients to ensure meaningful access by LEP persons to their federally assisted programs and activities. *See* 65 Fed. Reg. 50,121 (Aug. 16, 2000). The DOJ Guidance issued pursuant to this requirement states that recipients of financial assistance from DOJ should make “every effort . . . to ensure competent interpretation for LEP individuals during all hearings, trials, and motions.” Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. 67 Fed. Reg. 41,455, 41,471 (June 18, 2002) (DOJ Guidance). Since that time, DOJ has provided substantial additional guidance

¹ DOJ initiated this investigation under Title VI and the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act), 42 U.S.C. § 3789d(c). The Safe Streets Act also prohibits DOJ recipients from discriminating on the basis of race, color, or national origin. This letter and attached agreement refer to Title VI but also resolve DOJ’s Safe Streets Act investigation.

² Since the Supreme Court’s decision in *Lau*, other courts have found that the failure by a recipient to provide meaningful access to LEP individuals can violate Title VI’s prohibition of national origin discrimination. *See, e.g., U.S. v. Maricopa Cty.*, 915 F. Supp. 2d 1073, 1079-80 (D. Ariz. 2012). *Cabrera v Alvarez*, 2013 WL 1283445 at *5-6 (N.D. Cal. Mar. 27, 2013) (quoting 28 C.F.R. § 42.405(d)(1)) (Title VI intent claim properly alleged when public housing project failed to provide language assistance services); *Sandoval v. Hagan*, 197 F.3d 484, 510-11 (11th Cir. 1999) (holding that English-only policy for driver’s license applications constituted national origin discrimination under Title VI), *rev’d on other grounds sub nom. Alexander v. Sandoval*, 532 U.S. 275 (2001); *Nat’l Multi Housing Council v. Jackson*, 539 F. Supp. 2d 425, 430 (D.D.C. 2008) (citing 28 C.F.R. § 42.405(d)) (“Longstanding Justice Department regulations also expressly require communication between funding recipients and program beneficiaries in languages other than English to ensure Title VI compliance.”); *Almendares v. Palmer*, 284 F. Supp. 2d 799, 808 (N.D. Ohio 2003) (holding that plaintiff sufficiently alleged Title VI violation based on Defendant’s failure to ensure bilingual services in a food stamp program).

and technical assistance regarding the application of Title VI and the Title VI regulations to recipient courts and court systems.³

Background

In February 2011, DOJ's Civil Rights Division initiated an investigation of LASC and the Judicial Council of California. The Civil Rights Division and the United States Attorney's Office for the Central District of California jointly investigated this matter. DOJ's investigation was prompted by a complaint filed by the Legal Aid Foundation of Los Angeles that alleged discrimination against LEP individuals on the basis of national origin. Specifically, the complainants alleged that LASC failed to provide LEP individuals with meaningful access to its court services, including civil proceedings and court operations. While DOJ's investigation focused on LASC, the structure of the California judicial system required us to review policies promulgated and enforced at the state level through the Judicial Council and its staff.⁴

After an extensive fact-gathering investigation, on May 22, 2013, DOJ notified LASC and the Judicial Council by letter that several current policies, practices, and procedures of LASC and the Judicial Council appeared to be inconsistent with Title VI and its implementing regulations that prohibit national origin discrimination. DOJ recommended several immediate steps that LASC and the Judicial Council should take to improve meaningful access for LEP individuals to court proceedings and court operations.

Since the May 22, 2013 DOJ letter, LASC has made extensive enhancements to its language assistance services policies and practices in key areas including, but not limited to:

Expansion of Free Interpreter Services to Civil Proceedings: LASC now provides free interpreter services to LEP court users in the vast majority of civil proceedings, including unlawful detainer, probate, guardianship, conservatorship, elder abuse, family law (including ancillary proceedings such as evaluations and mediations), civil harassment, small claims proceedings, and limited civil proceedings (involving dollar amounts less than \$25,000). LASC currently has 375 interpreter positions and 10 supervising interpreters. Spanish language interpreters make up the majority of LASC's interpreters (197 full-time, 15 half-time, and 82 as needed). LASC also employs 29 full-time interpreters, 5 half-time interpreters and 29 as needed interpreters in languages other than Spanish and enhances its staff resources with independent contract interpreters. Since 2011, LASC has increased its assignment of regularly available

³ The Assistant Attorney General for the Civil Rights Division issued a letter in August 2010 to all Chief Justices and State Court Administrators describing the obligation of state courts under Title VI and the Safe Streets Act to provide LEP individuals with meaningful access to court proceedings, notwithstanding any conflicting state or local laws or court rules. The letter also described several practices "that significantly and unreasonably impede, hinder, or restrict participation in court proceedings and access to court operations based upon a person's English language ability," including denying LEP parties access to court interpreters in civil proceedings and charging LEP parties for the cost of interpreter services. *See also, U.S. v Maricopa Cty.*, 915 F.Supp. 2d 1073, 1080 (D. Ariz. 2012) (citing *Auer v. Robbins*, 519 U.S. 452, 461 (1997) (explaining that the DOJ's interpretation of Title VI regulations is "controlling" and entitled to deference so long as not plainly erroneous or inconsistent with the regulations)).

⁴ DOJ is working separately with the Judicial Council to resolve the portion of the investigation focused on statewide compliance. This letter and attached agreement do not resolve DOJ's investigation of the Judicial Council.

interpreters in Spanish, Armenian (Eastern), Farsi, Korean, Mandarin, and Russian to facilitate its expansion of language services in civil proceedings. The only remaining category of civil proceedings in which LASC does not guarantee free interpreter services is unlimited civil proceedings, involving dollar amounts over \$25,000, which LASC intends to cover by the end of 2017.⁵ LASC has historically provided free interpreter services in criminal, traffic, juvenile, domestic violence, mental health, and child support enforcement matters.

Notice: Multilingual signs advising LEP court users about the availability of free interpreter services are posted outside of small claims and unlawful detainer courtrooms. The documents served on defendants in these types of cases also now include a notice that LASC provides free interpreter services in these proceedings. LEP users of LASC's self-help centers are also informed that free interpreter services are available for their proceedings.

Translations: LASC has translated some vital court signage and critical court documents into the five languages in which it receives the most requests for interpreters: Spanish, Korean, Armenian (Eastern), Chinese, and Vietnamese. According to LASC estimates, these five languages comprise approximately 99% of all LASC LEP court users. LASC maintains a link on its website to essential Judicial Council forms and self-help information in multiple languages.

Requests: In 2016, LASC adopted a new Case Management System that will assist LEP litigants in obtaining interpreter services and LASC in gathering valuable data regarding interpreted events. The Case Management System will record a litigant's need for interpreter services at the initial point of contact with LASC, allowing interpreters to be scheduled in advance of court hearings. The Case Management System will also allow LASC to deploy its interpreters more efficiently and to anticipate future language assistance needs. In addition to the Case Management System, LASC has created a web portal that allows LEP court users to request interpreters for hearings in small claims and unlawful detainer cases. Plans are underway to expand the interpreter request web portal to other types of cases.

LASC Limited English Proficiency Plan: In July 2016, LASC updated its court-wide Limited English Proficiency Plan to reflect changes in the court since the legislature passed the statutory change to Cal. Gov. Code § 68092.1, which removed any statutory restriction on the provision of interpreters in civil matters free of charge. LASC's Limited English Proficiency Plan describes its language assistance services policy and the July 2016 updated version more closely reflects LASC's goal to provide free language assistance services to LEP court users. LASC intends to further update its Limited English Proficiency Plan to reflect the completed steps outlined in the agreement below.

Improvements to Interpreter Coordination: LASC has improved the process of deploying interpreters to assist LEP individuals by appointing a staff member as the Language Access Coordinator for all of LASC, hiring additional supervisors to facilitate efficient use of interpreter staff, providing updated staff training, and closely monitoring data regarding interpreter usage.

⁵ LASC currently provides free interpreter services in unlimited civil proceedings when an interpreter is available. Its ability to guarantee services in unlimited civil proceedings has been frustrated by the scarcity of available interpreters, primarily in languages other than Spanish. LASC is working toward resolving this issue through additional hiring, more efficient coordination of interpreters, and, if practicable, the use of video remote technology.

Other Services: Bilingual employees assigned at public counters and self-help centers are generally available to assist Spanish-speaking LEP court users outside the courtroom. LEP court users of languages other than Spanish may receive similar help from bilingual court employees, trained bilingual Judicial Corps volunteers or, with the assistance of “I Speak” cards, through an audio remote interpreter telephone service. LASC also appoints interpreters to assist court-appointed professionals with conducting psychological evaluations, Family Court Services mediations, and probate investigations.

Monitoring Language Needs: In addition to evaluating publicly available demographic data, LASC now monitors interpreter assignments, consults justice partners and legal services providers and seeks feedback about changing demographics from community outreach activities. LASC actively seeks to identify demographic changes that signal changes to the languages in which it must be prepared to provide services. LASC continues to participate in the five-year language-needs survey the Judicial Council conducts pursuant to California Government Code § 68563.

Training: LASC’s Education and Development Unit and Judicial Education Seminars Program have incorporated language access-related training into core course offerings for judicial officers and staff.⁶

Outreach: LASC participated in public outreach meetings organized by the Judicial Council to solicit information and feedback on expansion of language assistance services across the California Judicial Branch, and held periodic meetings with legal service providers to identify areas critical for increased language services, including identifying vital documents for translation. These outreach efforts are ongoing.

Branch-wide Compliance: LASC representatives have actively participated in the California Judicial Branch’s efforts to expand language assistance services across the California court system. LASC participated on the working group that developed the Strategic Plan for Language Access in the California Courts, and continues to participate on the Implementation Task Force created to implement that plan, including creating model forms, practices, and resources for use in the California courts.

Agreement

LASC serves a population of 10 million people in 88 cities located over 4,700 square miles. In recent years, it has provided free language assistance services in over 86 different languages.⁷ LASC’s size and diversity present challenges that are unique among state and local courts but, as discussed above, it has made significant changes to ensure LEP individuals have

⁶ The California Judicial Branch’s Center for Judicial Education and Research is incorporating a language access curriculum into all relevant existing judicial and staff education programs and courses. This includes required education programs for judges and commissioners. The curriculum will also be available for superior courts to use at their discretion.

⁷ See Los Angeles Superior Court Annual Report 2015, at 13, <https://www.lacourt.org/newsmedia/uploads/2015LASCAnnualReport.pdf>.

meaningful access to its services as required by Title VI and its implementing regulations. The attached Agreement reflects the remaining steps LASC has committed to take by December 1, 2017, to expand its offer of language assistance resources to LEP individuals. Successful completion of the action items in the Agreement will conclude DOJ's investigation.

Again, we thank LASC for its cooperation throughout this investigation. If you have any questions, please contact FCS attorney Anna Medina at (202) 353-3936 or anna.medina@usdoj.gov.

Sincerely,



Christine Stoneman
Acting Chief
Federal Coordination and Compliance Section



Joanna Hull
Chief, Civil Rights Section, Civil Division
United States Attorney's Office
Central District of California

cc: Ivette Peña, Counsel for Superior Court of California, County of Los Angeles
Linda Foy, Counsel for the Judicial Council of California
Richard Park, AUSA, United States Attorney's Office, Central District of California

Enclosures

AGREEMENT

The Superior Court of California, County of Los Angeles (LASC) and the Department of Justice (DOJ) agree that LASC will take the following steps by December 1, 2017, unless a different date is specified and/or agreed upon:

- I. Title VI: Provide appropriate language assistance services at no cost to limited English proficient (LEP) court users in court proceedings and court operations in compliance with Title VI and its implementing regulations, in accordance with the terms of this Agreement.
- II. Proceedings: Provide LEP court users free qualified interpreters in court proceedings.
- III. Translations
 - a. Translate vital local materials consistent with the Translation Protocol issued by the Judicial Council of California on June 24, 2016.
 - b. Add an interpreter services icon to the home page of the LASC website to guide LEP court users to the language resources LASC provides (by September 30, 2016).
 - c. Monitor the pages on the LASC website that experience the greatest number of views and translate those pages into the five non-English languages most requested in LASC.¹
 - d. Include links to translated Judicial Council materials on the LASC website, including the Judicial Council's statewide complaint form adapted for LASC, interpreter request form, and self-help materials.
- IV. Notice
 - a. Post multilingual signs outside of limited civil courtrooms advising LEP court users about the availability of interpreters for court proceedings at no cost to them (by September 30, 2016).
 - b. Add a notification in the top five non-English languages for limited civil cases (included in the package plaintiffs are required to serve on defendants) that interpreters are available to LEP parties in court proceedings free of charge (by September 30, 2016).
 - c. Place signs at courthouse entrances notifying court users in the top five non-English languages about the availability of free interpreter services for court proceedings.
- V. Requests and Interpreter Coordination
 - a. Expand the interpreter request web portal currently in use in small claims and unlawful detainers cases to the following case types:
 - i. Limited civil cases by September 30, 2016;
 - ii. Traffic cases by December 31, 2016;

¹ Currently, the five most requested languages other than English are Spanish, Korean, Armenian (Eastern), Chinese, and Vietnamese.

- iii. Family law cases by December 1, 2017
 - b. Implement the Case Management System for all civil case types.²
 - c. Implement scheduling software to enable interpreter assignment coordinators to offer same-day and next-day assignments to interpreters via text, email, or telephone.
- VI. Training: LASC will offer language assistance service-related training to judicial officers and provide it to its staff. LASC will regularly review its language assistance service-related training materials and update it as necessary.
- VII. Language Assistance Services Outside Court Proceedings: Implement the Interactive Voice Response system in all courthouses to provide callers with information about court services in English and in the top five languages in which LASC receives requests for interpreter assistance (by December 31, 2016).
- VIII. Outreach: Continue to consult with local legal services agencies, justice partners, and community-based service providers about emerging language trends and challenges. LASC will meet with such organizations at least once in 2016 and twice in 2017.
- IX. Limited English Proficiency Plan
 - a. Evaluate and amend, as necessary, LASC's Limited English Proficiency Plan annually to consider inclusion of new or updated language assistance services policies, procedures, or other information or materials whether created by LASC or adopted by the Judicial Council.
 - b. Take action as necessary to implement the Strategic Plan for Language Access in the California Courts adopted by the Judicial Council on January 22, 2015.
 - c. During the term of this Agreement, LASC will notify DOJ of LASC draft or amended policies, forms, and procedures to implement LASC's Language Access Plan and the Strategic Plan for Language Access in the California Courts and, upon request of DOJ, discuss them before implementing them.
- X. Communication with DOJ During the Term of Agreement
 - a. Identify a person with whom DOJ may communicate about the terms of this Agreement.
 - b. Provide DOJ a written update about the status of the steps outlined in this Agreement every six months. The first update is due six months from the date of execution of this Agreement. The final update is due no later than December 15, 2017.

² The Court anticipates implementing the new case management system in criminal cases by June 30, 2018.

- XI. Provide DOJ copies of every complaint about language services submitted to LASC and a summary of any disposition.³
- XII. Notify DOJ of any factor that may delay, affect, or preclude implementation of the terms of this Agreement as well as LASC's proposed response to the factor causing delay.
- XIII. LASC will continue to provide DOJ access to its staff and facilities and sources of information upon request from DOJ as required under 28 C.F.R. § 42.106(c).
- XIV. The parties agree to continue to communicate and cooperate to fulfill the terms of this Agreement. To this end, the parties agree to consider and respond promptly to any concerns and/or recommendations the other makes as to any matter within the scope of this Agreement.
- XV. Limitations
 - a. This Agreement does not constitute an admission by LASC regarding any allegations investigated in this matter.
 - b. This Agreement constitutes the entire agreement between DOJ and LASC to resolve Complaint No. 171-12C-31, as it pertains to LASC, and does not purport to resolve any other investigations or violations of federal law.

Within **sixty days** after receipt of LASC's final report, DOJ will notify LASC in writing of any concerns about successful completion of the terms of this Agreement or of the closure of DOJ's investigation.

This Agreement is a public document.

³ This does not include grievances filed through the process established under LASC's labor agreements.

EFFECTIVE DATE: September 20, 2016

**For the Superior Court of California,
County of Los Angeles:**



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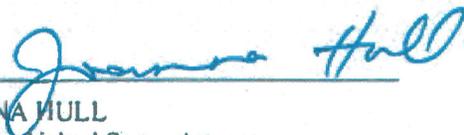
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