

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

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Date: June 21, 2013

To: Members, Board Committee on Stakeholder Relations

From: Mary Lavery Flynn, Interim Senior Director, Administration of Justice
Theresa Mesa, Program Coordinator, Office of Legal Services

Re: **Language Access: Status of Department of Justice Review**

Background Information

This agenda item is intended to update members of the Board Committee on Stakeholder Relations concerning language access developments since the presentation on this topic at your May, 2012, Board Committee meeting. That earlier agenda item is available at: <http://board.calbar.ca.gov/docs/agendaitem/Public/agendaitem1000009311.pdf>

In 2005, the Access to Justice Commission published a report on language access issues in our judicial system, entitled “Language Barriers to Justice”. That report described the challenges that exist in California: the need for translation in 220 languages in the courts, a lack of funding to meet those needs, and inadequate numbers of certified court interpreters to meet the need.

The 2005 report also recommended several things to address the challenges being faced by the judicial system:

- increasing funding to make interpreters available in civil cases,
- improving the court interpreter exam,
- increasing resources to help more interpreters become certified,
- training court personnel in the use of interpreters, and
- translating signage and written materials throughout the court system.

Status Report Being Developed by the Access Commission

In preparation for publication of a status report on language access later this year, the Access to Justice Commission has been studying language access initiatives. The Commission has been heartened by the progress that has been made since the 2005 report: expansion of the availability of interpreters in many situations; improvement of the court interpreter exam procedures that has led to increased numbers of certified interpreters; development of new programs to train interpreters; increased availability of training on the use of interpreters for court personnel; and a significant increase in the number and range of translated materials. The Access Commission looks forward to presenting the status report to the Board of Trustees as soon as it is available.

Investigation by the U.S. Department of Justice

In response to a complaint filed against the Los Angeles County Superior Court for lack of interpreter services, the U. S. Department of Justice has been conducting an investigation that has involved the Judicial Council as well as the L.A. Superior Court, because of the structure of language access initiatives in the state. An interim communication concerning that investigation has recently been submitted to the Judicial Council and the leadership of the Los Angeles County Superior Court and is available at: [U.S. Department of Justice Response to Complaint](#)

The Department of Justice noted their appreciation for the cooperation and continued dialogue that their office shared with the AOC and the Judicial Council throughout the investigation, and recognized that “California has indicated an interest in providing meaningful access to LEP individuals in all proceedings and court operations.” They also recognized the support of the Judicial Council for legislation that would have expanded access for litigants with limited English proficiency

The U.S. Department of Justice also addressed practices that they believe are inconsistent with Title VI including the following:

- Title VI requires that interpreter services in court proceedings be provided free of charge.
- Competent interpreter services cannot be provided by non-interpreters in court proceedings, including family and friends.
- Non-Spanish-speaking LEP litigants suffer the greatest barriers to access due to substantial deficits in the availability of language services.
- The AOC does not provide clear budgetary guidance regarding reimbursement of interpreter costs for non-mandated cases.

The DOJ proposed steps toward voluntary compliance including:

- Identifying a statewide language access coordinator.
- Identifying ways to estimate the cost of expansion of language services to facilitate and support legislative changes and budgetary requests.
- Considering efficiencies and practices that can improve and increase language access.
- Renewing and expanding efforts to provide interpreter services across the state.
- Clarifying the ability to waive interpreter fees, translating fee waiver forms into more languages, and training bench officers and court staff accordingly.

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