

Oregon Judicial Department Limited English Proficiency Plan

Purpose

The purpose of this document is to provide a simple framework outlining the Oregon Judicial Department's (OJD's) commitment for providing persons of Limited English Proficiency (LEP) with quality access to the state courts.

According to Title VI of the Civil Rights Act of 1964 and the subsequent Executive Order 13166, entities who receive federal funds in any part of the entity's organization must comply with Title VI of the Civil Rights Act throughout the entire entity. OJD is in substantial compliance with Title VI, and compliance is further supported by state statute and internal policies and protocols.

Background to Commitment to Title VI:

In 1993, the Oregon legislature passed SB 229, which established the interpreter statute for ensuring the rights of linguistic minorities who appear as parties, give witness stand testimony, or otherwise conduct business with the court. The development of the statute was a culmination of the work of the Supreme Court Task Force on Racial and Ethnic Issues in the Judicial System.

Since that time, the Office of the State Court Administrator (OSCA) has established a testing and certification program to ensure quality interpreting, developed scheduling protocols for the courts and OJD divisions, and obtained funding for staff interpreters and administrative personnel to manage the complex issues involving protecting the rights of linguistic minorities and providing access to the courts.

The Court Interpreter Services program, a part of the Court Programs and Services Division of OSCA, maintains a large electronic documents database where all policies, protocols, contact lists, forms, educational information, statutory links, court rules, etc., are available. The Court Interpreting and Translations document database can be accessed by all OJD employees and judges.

Chief Justice Wallace P. Carson, Jr., established the "Access to Justice for All" committee in 1997 to work on access issues in the judicial system. The committee is comprised of members of the bar, judges, district attorneys, members of the legislature, representatives of the governor's office, and staff from the Office of the State Court Administrator's office. The committee has supported federal legislation impacting court interpreting, and has successfully sponsored state legislative efforts to improve access for LEP populations as they interact with the judicial system.

Points of Contact:

Oregon Judicial Department staff would need to communicate with persons of limited English proficiency (LEP) in the following circumstances:

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- On the telephone.
- At the points of public reception in the Office of the State Court Administrator (OSCA), OSCA divisions, and the trial courts.
- At the public counters in the trial courts.
- In the courtroom.

Authority and Resources to Provide Language Assistance to Persons of LEP:

OJD is authorized to provide staff interpreters or free-lance interpreters (hired for blocks of time) for all interactions between persons of LEP and court staff and judges. (ORS 45.272 through ORS 45.297.)

For some simple conversational interactions, bilingual court staff may interact directly with persons of LEP, if the staff have been tested, passed the bilingual skills test, and are receiving the bilingual differential as part of their pay. The bilingual skills tests is a completely different test from the court interpreting test. Bilingual staff may not interpret under any circumstances.

Interpreters:

Interpreters are provided:

- to interpret the proceeding for parties appearing in court, whether appearing in a civil case or a criminal case.
- to interpret witness stand testimony.
- for persons required or desiring to avail themselves of court services such as, but not limited to, obtaining restraining orders, appearing adoption proceedings, applying for court appointed attorney, paying a ticket, or being processed for release from custody by state court employees.

For exigent circumstances, OJD staff may use the services of Language Line interpreters in lieu of utilizing staff interpreters or in-person freelance interpreters.

Translations:

While OJD does not provide individual translation services (written to written services), some forms issued from OSCA have been translated, paid by grant funds, into the major non-English languages found in the Oregon state courts. When translated materials are not available, courts and divisions schedule interpreters to sight translate written materials (orally render the content of written materials), when necessary for interaction with the court. Forms that have been translated are available to court staff on the Court Interpreting and Translations database, in the last section. OJD has never received funding to provide translations in any regular or comprehensive manner. All filings with the court must be in English, according to ORS 1.150, and OSCA has established guidelines regarding translated materials.

Bilingual staff:

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When staff have been identified by their administrative authority as needing to use bilingual skills in performance of their duties and the staff have passed a bilingual skills test, the staff may use their bilingual skills directly communicate with persons of LEP. Bilingual staff may not interpret or sight translate in court or at the public counter. Interactions with bilingual staff are limited to direct conversations and the complexity level is assumed to be at the 8th grade reading level or below. Staff use their own words in these interactions and are not interpreting for judges or other court staff.

Web Page:

The OJD has created an abridged Spanish language version of OJD website, which provides links to Family Abuse Prevention Act (restraining order information and forms) in Spanish. Russian, Korean, and Vietnamese translations of the FAPA information and forms are being finalized and will also be available on the internet. The OJD web page provides weblinks to other sites that provide information about legal issues, including the Oregon State Bar website, which provides Spanish, Russian and Vietnamese translations of general information concerning wills, small claims, bankruptcy and other matters.

Quality of Interpretation Provided:

According to statute, courts must provide an Oregon Certified Court interpreter, if one is available, able, and willing to serve. (ORS 45.288 (1)) The certification examination involves testing for accuracy and completeness in the three modes of interpreting: consecutive, simultaneous, and sight translation. Successful test candidates must also observe court, submit to a criminal history check, and swear or affirm to uphold the Code of Professional Responsibility for Interpreters in the Oregon Courts. All OJD staff interpreters are certified. If staff are not available to interpret, courts would then provide a certified freelance interpreter. If no certified interpreter is available, able and willing to provide services, the court may schedule a noncertified interpreter. For short, non-evidentiary matters, the court may schedule coverage with a staff or a freelance certified interpreter for telephonic coverage. Only in exigent circumstances is the Language Line utilized.

Certified interpreters are not available in all parts of the state and tests are not developed for all languages that appear in the Oregon courts. The Court Interpreter Services Program is developing:

- minimum professional requirements for noncertified free lance interpreters for languages where certification is available, and
- expected professional qualifications for freelance interpreters for languages where no certification is available.

If no certified interpreter is available, either in person or via telephone, the court must voir dire the interpreter on the record as to the interpreter's qualifications. (ORS 45.275 (7))

Training provided to OJD staff and judges regarding meeting the needs of persons of LEP

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groups:

- New Judge Training - A presentation is provided in the New Judge Training seminars on when interpreters are to be provided, how the courts are to schedule, quality of interpretation the judges should expect, ethical considerations and expectations of interpreters, and where to obtain more information. A link to the Court Interpreter Services Program's "Court Interpreting and Translations Database" (x) is provided, which includes comprehensive information about interpreting, statutory authority, judges benchbook chapter on interpreters, etc.
- TCA Orientation - A brief presentation is made to newly hired Trial Court Administrators regarding when interpreters are to be provided, how the courts are to schedule, payment considerations, and where to obtain more information. A link to the Court Interpreter Services Program's "Court Interpreting and Translations Database" (x) is provided, which includes comprehensive information about interpreting, statutory authority, scheduling protocols, payment protocols, etc.
- New Employee Orientation - The OJD's responsibility to provide customer service to all of Oregon's residents is addressed, including how OJD provides interpreters for persons availing themselves of court services (whether in person or on the telephone), no matter what language the person speaks. New employees are encouraged to ask their supervisors for more information as needed.
- Supervisor's Training: A presentation is provided in the Supervisor Training C.A.M.P. regarding when interpreters are to be provided, how the courts are to schedule, quality of interpretations the courts should expect, ethical considerations and expectations of interpreters, payment considerations, and where to obtain more information. A link to the Court Interpreter Services Program's "Court Interpreting and Translations Database" (x) is provided, which includes comprehensive information about interpreting, statutory authority, scheduling protocols, payment protocols, etc.
- Continuing Legal Education: As able and requested, the staff of the Court Interpreter Services Program provide CLE programs for attorney associations, court administration associations, district attorney offices and associations, etc.

Data Analysis: Identification of LEP Groups and Monitoring

Through payment records, OJD is able to determine the main LEP groups that appear in the state courts. The main LEP group is Spanish, with American Sign Language as the second largest LEP group. Other LEP groups appearing in much smaller percentages are: Vietnamese, Russian, and Korean.

The management staff of the Court Interpreter Services Program review payment records, population trends, and community needs to ensure that persons of LEP are provided quality interpreter services when interacting with the OJD. Analysis of statistics is ongoing, with

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specific information developed in detail at points in time for management purposes.

Payment for Interpreter Services, Administrative Authority:

Payment of interpreter services, when scheduled appropriately, is from the Mandated Payments Account, administered by the Office of the State Court Administrator.

Staff interpreter salaries are paid from the Mandated Payments Account. Interpreter supervisor salaries and salaries of administrative staff of the Court Interpreter Services Program are paid from the Mandated Payments Account or the Court Interpreter Services Program fund. These two accounts are state General Fund accounts.

Staff who have duties specifically related to court interpreter testing may have part of their salary paid from the Court Interpreter Certification Fund. This account is an "other fund" and receives some revenue for educational and testing activities.

The Deputy State Court Administrator for Program Operations is the Administrative Authority over all staff interpreters, all interpreter supervisors, all testing staff, and all administrative staff of the Court Interpreter Services Program.