

# MASSACHUSETTS TRIAL COURT

## LANGUAGE ACCESS PLAN



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in cooperation with the Language Access Advisory Committee

December 2014

MASSACHUSETTS TRIAL COURT  
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## I. INTRODUCTION

**Mission Statement:**

*The Massachusetts Trial Court is committed to providing equal access to justice for all who use the Commonwealth's courts; to the efficient and effective administration of justice and the fair and impartial resolution of disputes; to the protection of constitutional and statutory rights and liberties; to prompt and courteous service to the public by committed and dedicated professional employees utilizing best practices in a manner that inspires public trust and confidence.*

The policy of the Massachusetts Trial Court is to provide meaningful<sup>1</sup> language access for all Limited English Proficient (LEP) individuals. The Trial Court shall make every effort to ensure access to language access services in all court proceedings and court-managed or court-related programs, as well as ensuring access to communication with court-appointed or court-supervised personnel.

The Trial Court recognizes that many LEP individuals face obstacles to justice in addition to their limited English proficiency. This plan does not attempt to address societal obstacles, but the provision of meaningful and appropriate linguistic access can provide equal footing in terms of language for LEP individuals accessing the court.

## II. LEGAL BASIS AND PURPOSE

This document serves as the plan for the Massachusetts Trial Court to provide comprehensive services for LEP individuals in compliance with Massachusetts and federal law prohibiting discrimination based on national origin, which includes language. It is designed to respond to Title VI of the Civil Rights Act of 1964 and to the ancillary requirements imposed by Executive Order 13166 as it relates to recipients of federal funds, and incorporates compliance with state law and court rules.<sup>2</sup>

Pursuant to Massachusetts General Laws (M.G.L.) chapter 221C, LEP individuals have a right to the assistance of a qualified or certified interpreter in court proceedings. The statute recognizes the direct correlation between accurate interpretation and a fair legal process for LEP litigants. The purpose of the law is to “provide the broadest possible protection for the rights of non-English speaking persons to understand and be understood.” Acts of 1986, ch. 627.

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<sup>1</sup> The Department of Justice defines meaningful access as “[l]anguage assistance that results in accurate, timely, and effective communication to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed or inferior as compared to programs or activities provided to English proficient individuals.” DEP’T OF JUST. LANGUAGE ACCESS PLAN at 3 (Mar. 2012).

<sup>2</sup> The rights of individuals who are deaf or hard of hearing are covered under the federal Americans with Disabilities Act (ADA), and M.G.L. c. 6, § 194, rather than Title VI of the Civil Rights Act. This Language Access Plan does not include interpreter services for deaf or hard of hearing individuals.

Section 7 of chapter 221C created the Office of Court Interpreter Services (OCIS) within the Trial Court and charged OCIS with the certification and provision of interpreters. A Code of Professional Conduct for Court Interpreters of the Trial Court was developed by OCIS in 1988. The Standards and Procedures of the Office of Court Interpreters<sup>3</sup> were promulgated by the Chief Justice for Administration and Management in 2003, and the Code of Professional Conduct was incorporated into the Standards and Procedures. The Code of Professional Conduct was revised in 2009 using the National Center of State Court's (NCSC) Code of Professional Conduct as a model. The full Standards and Procedures periodically will be reviewed and revised to reflect expansion of services and any other changes. Section 7 of chapter 221C also established a Trial Court committee on interpreter issues. The Committee for the Administration of Interpreters provides policy oversight and advises the Chief Justice of the Trial Court on interpreter services.

The purpose of this plan is to provide a framework for the provision of meaningful language assistance to those LEP individuals who come in contact with the Massachusetts Trial Court. This document is an assessment of current services and an action plan for implementation of proposed improvement of those services. It seeks to address obstacles to justice for LEP individuals by following the four-factor analysis as prescribed by the federal Department of Justice (DOJ), as well as the DOJ's accompanying guidance and tools specific to state courts.<sup>4</sup>

### **III. IDENTIFYING LANGUAGE NEEDS**

#### **A. Statewide Data**

Massachusetts is ranked as one of the top ten states with the largest LEP population.<sup>5</sup> According to national census data for Massachusetts from 2012, over 1.4 million Massachusetts residents over the age of five, or 22% of the Massachusetts population, speak a language other than English at home.<sup>6</sup> The number of individuals identified as LEP has grown from 523,000 in 2006-2008 to over 559,000 in 2012.<sup>7</sup> The acute need for language services can be seen by the many different LEP individuals who call Massachusetts home.

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<sup>3</sup> The Standards and Procedures of the Office of Court Interpreter Services are available at [www.mass.gov/courts/docs/ocis-standards-procedures.pdf](http://www.mass.gov/courts/docs/ocis-standards-procedures.pdf)

<sup>4</sup> The DOJ outlines a four-factor analysis for the provision of language access services: "(1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the grantee/recipient and costs." Department of Justice Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455, 41,459 (June 18, 2002), available at <http://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf>.

<sup>5</sup> Migration Policy Institute, *LEP Data Brief 4* (Dec. 2011).

<sup>6</sup> U.S. CENSUS, AMERICAN COMMUNITY SURVEY, Table B16001, *Languages Spoken at Home and Ability to Speak English for the Population 5 Years and Over* (2012), available at <http://www.migrationpolicy.org/data/state-profiles/state/language/MA>.

<sup>7</sup> U.S. CENSUS, AMERICAN COMMUNITY SURVEY, *Detailed Languages Spoken at Home and Ability to Speak English for the Population 5 Years and Over for the United States: 2006-2008* (Apr. 2010), available at <http://www.census.gov/acs/www/>.

<b>Language Spoken at Home</b>	<b>Population</b>	<b>Percentage of Total Population</b>	<b>Percentage of LEP Population</b>
2012 population ( <i>aged 5 and above</i> )	6,282,285	100	/
Only English	4,878,961	77.7	/
Language other than English	1,403,324	22.3	/
Limited English Proficient	559,123	8.9	100
Spanish	217,495	3.5	38.9
Portuguese	78,728	1.3	14.1
Chinese	61,072	1.0	10.9
Haitian Creole*	33,396	0.5	6.0
Vietnamese	23,371	0.4	4.2
Other	145,061	2.3	25.9

### **B. Court-Specific Data**

Court contact with LEP individuals may occur at different rates and in different languages than what statewide data would indicate. The Trial Court therefore compares census data with its own data, tracking the language needs of court users throughout Massachusetts.

#### **In-Court Events with Interpreters in FY2012, by Court Department<sup>±</sup>**

District Court	57,245
Juvenile Court	8,924
Boston Municipal Court	7,807
Probate and Family Court	7,328
Superior Court	6,860
Housing Court	2,566
Land Court	0
<b>TOTAL</b>	<b>90,730</b>

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\* Listed as French Creole in the U.S. Census.

<sup>±</sup> Data will be revised as collection methods improve.

**Percentage of Major Languages Interpreted in the Trial Court, FY2012**

Spanish	72.8%
Portuguese	14%
Cape Verdean	2.2%
Haitian Creole	1.9%
Vietnamese	1.4%
Khmer	1.2%
Mandarin	0.92%
Russian	0.91%
Arabic	0.69%
Cantonese	0.55%
Other languages	---

The Trial Court case management system, MassCourts, records relevant data as to language needs, case types, and location. However, current technology of the Trial Court does not generate sufficient reporting of language services that have been provided, including duration of service, type of proceeding, or number of parties assisted. In addition, data is not yet collected regarding bilingual staff or other language services in addition to interpreters. The Trial Court will make efforts to collect useful data regarding the language needs of individual litigants by case type, location, language, incidences of delay, default, and dismissal, as well as other metrics that illuminate the particular needs of LEP litigants.

**Action Steps:**<sup>8</sup>

- The Trial Court will develop protocols and necessary technology to fully capture and accurately report the request for and use of interpreter services provided by bilingual/multilingual staff, court staff interpreters, *per diem* interpreters, and Language Line.
- Once this information is available, the Trial Court will assess the specific needs of each court to be able to allocate resources efficiently and provide appropriate language coverage.

**C. Notice**

LEP parties may not know that they have a right to interpreter services at no cost and may hesitate to accept such services, fearing that it will reflect negatively on them or their case, or that it will cost money.<sup>9</sup> In response to these concerns, the Trial Court will inform LEP individuals of competent interpreter services at no cost by providing information on court forms

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<sup>8</sup> How best to accomplish each action step throughout this document will be informed by the availability of adequate and appropriate resources.

<sup>9</sup> ABA Standards (2012), at 43, 45.

and pleadings served, in the courthouse, on the Trial Court website, and by widely advertising this information to the community.

The Trial Court has included multilingual information on key court forms to notify litigants that they have received a court document. The Trial Court has also developed a “Babel Notice,” a poster that informs litigants of the right to receive interpreter services. In English and 31 other languages, the poster reads: “You have the right to an interpreter at no cost to you. Please point to your language. An interpreter will be called. Please wait.”

**Action Steps:**

- The Trial Court will modify the Babel Notice to be used in different locations, and post the modified sign at all courthouse entrances, clerk’s counters, Probation counters, the Trial Court website, and other public areas, including law libraries and Court Service Centers.
- The Trial Court will amend court forms to inform recipients that the Trial Court provides language access services at no cost.
- The Trial Court will create a dedicated language access hub on its website that provides essential information regarding interpreters and multilingual forms and information.
- The Trial Court will investigate a mechanism for court users to contact the relevant court or office to self-identify as requiring interpreter services.

**IV. LANGUAGE RESOURCES**

**A. Types of Language Assistance Currently Provided**

***1. Office of Court Interpreter Services (OCIS)***

The Office of Court Interpreter Services (OCIS) is part of the Support Services Department of the Trial Court Office of Court Management, and is responsible for the day-to-day operation of the interpretation and translation services. OCIS is also responsible for providing training and certification for court interpreters.

***2. Staff Interpreters***

Massachusetts currently employs twenty-two full-time certified staff interpreters. Staff interpreters are either assigned to individual courthouses / court complexes, or to regions. Staff interpreters are assigned to interpret in all court proceedings, criminal or civil. Staff interpreters represent the highest level of quality that the Trial Court can provide for LEP court users.

<b>Language</b>	<b>Staff Interpreters</b>
Spanish	14
Portuguese	5
Khmer	1
Haitian Creole	1
Vietnamese	1

**Action Steps:**

- The Trial Court will prioritize having at least one Spanish staff interpreter assigned full-time to each Regional Justice Center.<sup>10</sup>
- The Trial Court will develop a protocol for hiring additional staff interpreters based upon the volume of court users seeking language assistance in a particular language in each court location or region.

***3. Per Diem Interpreters***

OCIS maintains a roster of individual certified, qualified, and screened interpreters who are assigned on a *per diem* basis to provide interpreting services in courts throughout Massachusetts. As of July 2014, the roster included over 150 interpreters speaking over 50 different languages.

***4. Outside Agency Vendors***

Agency interpreters are provided by an approved agency when needed. The Trial Court has contract provisions with agency interpreters that specify minimum interpreter qualifications. However, because they are neither certified nor screened by OCIS, agency interpreters are an option of last resort for the Trial Court.

In addition to agencies that provide in-person interpreters, the Massachusetts Trial Court has a contract with Language Line to provide telephone interpreting services. Telephone interpreter services are available to court staff at front counters, law libraries, and Court Service Centers, and are used when necessary for brief, non-evidentiary courtroom proceedings.

***5. Translation Specialist***

OCIS is responsible for translating court materials and documents, as well as signage. The OCIS translation specialist translates court forms and vital documents into Spanish and manages the process of translation into other languages.

***6. Bilingual Court Staff***

Currently there is no tracking, screening, training and/or recognition for bilingual/multilingual court staff that engage in direct public contact with LEP individuals. The Trial Court will promote the hiring of bilingual/multilingual staff and recognize staff appropriately for using their bilingual skills.

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<sup>10</sup> A Regional Justice Center is a multi-department courthouse that serves surrounding communities.

**Action Steps:**

- The Trial Court will evaluate its hiring practices and develop appropriate policies for bilingual/multilingual employees to provide direct services in languages that they speak and in which they are deemed competent.
- The Trial Court will identify appropriate situations where bilingual/multilingual employees may provide services in a language other than English and develop a training program for all staff to learn the protocol for such situations.

**7. Court Liaisons**

Each division of each Trial Court department has a court liaison, designated by the First Justice, Regional Administrative Judge, or Chief Justice of that division or department. As outlined in the OCIS Standards & Procedures, “[i]t is the responsibility of the Court Liaison to be informed of where court interpreters are needed on each day, and to be available to answer inquiries from OCIS scheduling department about current requests and assignments.” *OCIS Standards & Procedures*, Section 3.05.

**Action Steps:**

- The Trial Court will expand training and recognition opportunities for court liaisons.
- The Trial Court will develop a standard, uniform definition of the court liaison position and its responsibilities.

**B. Use of Language Resources**

**1. Identifying LEP Individuals**

**a. Early Identification**

The Trial Court will examine how it can anticipate the needs of LEP individuals before they enter the courthouse. The Trial Court will work with law enforcement, public counsel, private bar, advocates, social workers, affiliated agencies, and individual court users to identify language access needs in all matters, for all court users.

**Action Steps:**

- The Trial Court will ensure that interpreter needs are included on the pilot Electronic Application for Criminal Complaint.
- The Trial Court will work with law enforcement to ensure that interpreter needs are consistently filled out on complaint forms, and to develop protocols to meet interpretation needs, e.g., when an LEP individual is detained after hours, and when an LEP individual applies for a 209A via the Emergency Response System.
- The Trial Court will develop a plan to address early identification in civil matters.

Within the courts themselves, every clerk and register’s office has access to interpreter services, either in person or remotely, and shall use it as needed. LEP individuals may also use a “Babel Notice” to identify their language need. If individuals are filing a new case, court staff

shall include the need for language access services when initiating the case in the Trial Court case management system.

**Action Steps:**

- The Trial Court will explore the use of an automated multilingual telephone menu that would provide information about language assistance services. Once the menu is established, signage, forms, and the website will include this telephone number.
- The Trial Court will modify its Forms Principles to require a field for “Interpreter Needed” on all initial filings.

b. Protocol for Notification of Language Need

*Staff notification process.* Currently, an individual may only request an interpreter through local court staff, who submit the request interpreter by entering the information into MassCourts or by contacting OCIS via phone, email, or fax. OCIS and the Trial Court departments are streamlining staff requests through MassCourts. This will decrease the need for day-of requests for interpreters, and ensure that the Trial Court’s resources are being used efficiently.

*Advocates.* Currently, there is no mechanism for attorneys or other advocates to notify the Trial Court of the anticipated need for an interpreter.

*MassCourts modifications.* OCIS cannot currently access MassCourts data. MassCourts deposits data at regular intervals into a separate database for OCIS to run queries and assess language needs.

*Day-of notification.* If not ascertained in advance, court personnel and judges may determine during a court proceeding that an interpreter is appropriate. Many persons who need an interpreter may not request one in advance because they do not realize that interpreters are available, or because they do not recognize the level of English proficiency or communication skills needed to understand the court proceeding. In these instances, the court clerk or judge can make day-of arrangements to have an interpreter present to ensure full access to the courts. No motion is required. The judge may conduct a *voir dire*, as described in the Court Interpreters Bench Card for Judges, to determine the need for a foreign language interpreter. If an interpreter is needed, court staff shall contact OCIS as soon as practicable to make interpreter services available. The proceedings shall not continue until interpreter services are provided.

**Action Steps:**

- The Trial Court will develop Reference Cards and training for all Departments on how to use MassCourts to request interpreter services.
- The Trial Court will grant OCIS access to MassCourts, to allow schedulers to confirm interpreter scheduling and correct errors in interpreter fields.
- The Trial Court will explore making MassCourts docket information regarding interpreter needs easily visible and accessible to courtroom staff, to enable efficient bundling of cases needing interpreters on the same day.

- The Trial Court will explore options for informing the public of the right to interpreter services in each court session.
- The Trial Court will develop a mechanism for advocates to inform the court of the anticipated need for interpreter services.
- The Trial Court will develop a protocol for making interpreters available in Clerks' offices to provide language assistance to initiate a court proceeding or respond to an active case.

## ***2. Interpreters Used During Court Proceedings***

The Trial Court provides linguistic access to LEP individuals involved in all civil and criminal matters, including the initiation of the proceeding.<sup>11</sup> Every effort is taken to ensure a competent interpreter for LEP individuals during all hearings, trials, and motions for which the LEP individual may be present.

### **a. Scheduling**

OCIS schedulers maintain a list of interpreter availability, and provide staff and *per diem* interpreters with a weekly schedule of interpreter assignments, which are also posted on the Trial Court intranet for court staff to access. The scheduling system prioritizes interpreters to provide the highest quality interpreting in court proceedings. Certified interpreters are those interpreters that have undergone the most testing and credentialing, and thus are prioritized for court proceedings. The mode of interpretation will be at the discretion of OCIS, unless otherwise determined by the judge.

The Trial Court recognizes the safety concerns presented by providing one interpreter for multiple parties in matters involving domestic violence and other sensitive matters.

#### **Action Steps:**

- The Trial Court will identify case types and situations that require special attention.
- The Trial Court will strive to provide one interpreter per party in such matters, and will ensure that appropriate equipment is available for all parties to hear and be heard.
- The Trial Court will make every effort to ensure that gender and sensitivity to the needs of parties experiencing domestic violence or sexual assault are taken into consideration when scheduling interpreters.

### **b. Court Proceedings**

OCIS Standards & Procedures Section 14.00 outlines the process for use of interpreters during court proceedings, including interpreter oath and position of interpreter in the courtroom.

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<sup>11</sup> Pursuant to court rule, interpreter compensation "shall be paid out of funds provided by law or by one or more of the parties as the court may direct, and may be taxed ultimately as costs, in the discretion of the court." Mass. R. Civ. P.43(f), Mass R. Dom. Rel. P. 43(f). *See also* Mass. R. Crim. P. 41 ("The judge may appoint an interpreter or expert if justice so requires and may determine the reasonable compensation for such services and direct payment therefor.").

Pursuant to General Laws chapter 221C, §4 and as described in the OCIS Standards & Procedures at Sections 14.01 and 14.04, interpreters swear a standard oath before interpreting in any legal proceeding, and judges may also grant the interpreter time to explain the interpreter role for the benefit of the litigant.

*Team interpreting.* In accordance with national best practices, OCIS employs team interpreting for lengthy proceedings to ensure accuracy and prevent errors.

**Action Step:**

- The Trial Court will ensure that the judge's interpreter services bench card is distributed to all judges' benches and that judges are trained in the use of the card and the use of Language Line.

***3. Interpreting Outside the Courtroom***

As the DOJ guidance explains, meaningful access extends to court operations beyond the courtroom. The Trial Court will work with its partners to provide language access to individuals at all stages of court use.

*Entry and intake points.* The main process entry point to the court system is a clerk, register, or probation office service counter. Staff must not turn any person away because of her language or ask her to return with someone who can speak English. Staff at entry and intake points are responsible for discerning the language needs of an LEP person and seeking an interpreter or bilingual/ multilingual staff person to assist. While an interpreter cannot always be present on short notice in these locations, the availability of telephone interpretation services is often an adequate solution. Clerk, register, security and probation offices have begun to be trained on using Language Line for telephone interpreting. Through this education, the Trial Court will expand the use of telephone interpretation services by court staff.

**Action Steps:**

- The Trial Court will develop a Quick Reference Card for entry and intake point staff to follow when a person who appears to be LEP seeks services.
- The Trial Court will expand access to Language Line and continue to train staff on its use.
- The Trial Court will explore best practices for assigning staff and/or *per diem* interpreters to Court Service Centers, law libraries, probation offices, clerk and register offices, and programs offered within the court when their court proceedings have completed.

*Court-ordered programs and court professionals.* LEP individuals must be able to communicate with all individuals involved in a case, including professionals appointed by the court such as court psychologists and clinic staff, guardians *ad litem*, court investigators, court-ordered program staff and other individuals paid or supervised by the court.

**Action Steps:**

- The Trial Court will ensure that programs mandated by the courts either provide direct service in multiple languages, or provide interpreter services for LEP litigants to attend those programs.
- The Trial Court will engage stakeholders in a discussion of how to provide language access services in court operations.
- The Trial Court will identify all court-ordered programs offered in languages other than English and make a list available to all courts and users.
- The Trial Court will create working partnerships with court-ordered programs to improve efficiency and availability of interpreter services for LEP individuals in those programs.
- The Trial Court will investigate best practices for supervising personnel that provide language access services.

***4. Translation***

Massachusetts understands the importance of accurately translating forms and documents so that LEP individuals from groups who have demonstrated the highest need as revealed by data collected by OCIS and based on changing demographics, have greater access to court services.

*Signage.* Court users must have the ability to find their way around a courthouse in order to obtain meaningful access to court services. The Trial Court recognizes that some LEP individuals may have low levels of literacy; visual maps and color coding can respond to issues of illiteracy and low-literacy.

**Action Steps:**

- The Trial Court will design readable signage for future courthouses in English and in each locale's two most commonly spoken foreign languages.
- The Trial Court will add and update signage to existing courthouses to reflect each locale's linguistic population.
- The Trial Court will include visual maps and color coding in its signage, where feasible.
- The Trial Court will assign court staff and community volunteers to conduct a walk-through of each courthouse to assess signage and prioritize new signs.

*Website.* The Trial Court is responsible for maintaining multilingual resources on the court system website. As court documents and other information are translated, they are posted on the court system website. Content translated by the Trial Court and posted on the court system website has been reviewed for accuracy and quality. In addition, the Trial Court also has automated translation available through mass.gov. The Trial Court does not endorse or guarantee the reliability of automated translation.

**Action step:**

- The Trial Court will explore ways of improving the quality of translated written material on the website, including efforts to increase readability by using plain language.

## V. PROTOCOLS FOR INTERPRETERS, TRANSLATORS, AND COURT PERSONNEL

### A. Interpreter Testing

OCIS currently uses the Council of Language Access Coordinators (CLAC)<sup>12</sup> of the National Center for State Courts written examination for all interpreters, and a state-developed oral examination for Spanish and Portuguese interpreters. OCIS began administering oral exams from CLAC for the first time in 2013, as a pilot in collaboration with Maine and Rhode Island.

#### **Action Steps:**

- OCIS will expand its recruitment efforts to increase the number of qualified court interpreters.
- OCIS will expand its certification protocols to include a public calendar of regularly scheduled examinations, using the written and oral exams developed by CLAC. Massachusetts will continue to partner with other New England states on testing.

### B. Certification and Credentialing Protocols

Section 2 of Massachusetts General Laws chapter 221C outlines the right of LEP individuals to the assistance of qualified or certified interpreter services throughout court proceedings.<sup>13</sup> Certification and credentialing protocols for interpreters are encapsulated in Sections 4.00-5.00 of the Standards and Procedures of the Office of Court Interpreter Services, including training and ethics standards under the Code for Professional Conduct. The Code is intended to ensure the highest standard of service to all LEP individuals seeking language services. All staff and *per diem* interpreters must affirm that they will comply with the Code.

#### ***1. Certified and Screened Interpreters***

*Per diem* interpreters are currently divided into two tiers: screened and certified.

A screened interpreter is one who has successfully completed all screening exams and interviews; who has a minimum academic credential equivalent to a four-year college-level degree; who has completed the introductory orientation and training, and the OCIS mentoring program as specified in the Standards & Procedures, as well as any other mandatory training.

A certified interpreter is one certified or professionally qualified by OCIS upon passing a written exam and an oral certification exam if one is available in their language, or by meeting

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<sup>12</sup> Formerly the Consortium for Language Access in the Courts. Available at <http://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access/About-us.aspx>

<sup>13</sup> “A non-English speaker, throughout a legal proceeding, shall have a right to the assistance of a qualified interpreter who shall be appointed by the judge, unless the judge finds that no qualified interpreter of the non-English speaker’s language is reasonably available, in which event the non-English speaker shall have the right to a certified interpreter, who shall be appointed by the judge...” M.G.L. c. 221C, §2.

equivalent approved criteria for assessing their superior interpreting skills. In addition, certified interpreters have met the requirements of screened interpreters.

Staff interpreters must be fully certified in the same manner as *per diem* interpreters. There are two tiers of staff interpreters. Staff interpreters may apply for classification as Interpreter II, based on additional duties performed within the courts.

## ***2. Translators and Translation***

*Translator certification.* No national standards exist for the certification of court translators. Massachusetts is committed to developing certification standards by which high-quality translation services can be maintained and provided.

*Translation guidelines.* The Massachusetts Trial Court has adopted *Guidelines for the Translation of Court Forms and Instructions in the Trial Court*, consistent with ABA standards. To date, several court forms have been translated into Spanish, Portuguese, Arabic, Khmer, Vietnamese, Chinese, Russian, and Haitian Creole. As is stated in the *Guidelines*, the Trial Court will endeavor to translate court forms and materials in the first instance into Spanish and Portuguese, the two non-English languages spoken most frequently in Massachusetts, followed by other languages based on an evaluation of need.

*Translation priorities.* The Trial Court is in the process of prioritizing documents to be translated. The prioritization process will consider what documents are used most, the gravity of consequences for not having that information or document in their own language, and the documents most often sight-translated by interpreters. In the event that the Trial Court has not yet translated a specific document, court users can request sight translation or court funds for individual translations.

*Terminological database.* A terminological list of legal terms in Spanish is currently being built, and will be expanded to additional languages. The translation specialist will construct such terminology lists based on the documents being translated and will build upon similar terminologies developed in other jurisdictions.

### **Action Steps:**

- The Trial Court will develop standards for court translator certification.
- The Trial Court will finalize the protocols for prioritizing translation of court materials, with input from community members.
- The Trial Court will strive to modify court materials into plain language before they are translated.
- The Trial Court will translate court materials as prioritized.
- The Trial Court will post translated materials to the website and provide them to clerical staff, along with accompanying training.

### **3. Bilingual Staff**

There are currently no protocols for assessing bilingual/multilingual staff.

#### **Action Step:**

- The Trial Court will assess bilingual/multilingual staff in accordance with federal guidance, based on their proficiency and ability to accurately communicate information in both English and the other language; the ability to identify and employ the appropriate mode of language assistance; cultural competency; and knowledge of relevant legal terms and concepts.

### **C. Continuing Education Requirements**

The Trial Court values continuing education for court interpreters and bilingual/multilingual staff as the foundation of providing meaningful language access. There are currently no official requirements for interpreters to continue their education or maintain certification with OCIS.

#### **Action Steps:**

- The Trial Court will expand its continuing education program for interpreters and translators based upon best practices in other states, as well as the national models of the National Center for State Courts, National Association of Judiciary Interpreters and Translators, American Translators Association, and American Bar Association.
- The Trial Court will include an ethics exam and training on legal terminology in its continuing education requirements.

### **D. Quality Assessment**

In addition to continuing education requirements, regular performance reviews and periodic monitoring of interpreters assure the provision of quality interpretation.

#### **Action Steps:**

- The Trial Court will develop annual performance review for staff interpreters, and will review *per diem* interpreters in compliance with continuing education requirements.
- The Trial Court will incorporate as part of that review feedback from LEP court users, court staff, and judges, and will expand periodic observation of interpreters in court proceedings, and/or periodic review of audio recordings of past proceedings.

### **E. Complaints and Disciplinary Action**

Section 12.00 of the Standards and Procedures of the Office of Court Interpreter Services contains a thorough process for responding to complaints and possible code violations. A complaint form is currently available in English, and is posted on the court system website. OCIS ensures that all complaints are fully investigated.

No complaint process currently exists to report language access issues with persons other than interpreters. The Trial Court will develop and implement a system to monitor all personnel

who have responsibilities to LEP persons under this Plan, and ensure that complaints regarding language services are fully investigated.

**Action Steps:**

- The Trial Court will translate the interpreter complaint form into additional languages, and will increase the visibility of the complaint process.
- The Trial Court will add direct supervision and observation of interpreters in court proceedings as part of the investigation process.
- The Trial Court will develop and implement a system to monitor the compliance of other personnel who have obligations under this Plan, including a visible complaint process available in multiple languages.

**F. Training**

The Trial Court is committed to providing professional development and training opportunities for all employees on the requirements of meaningful language access for LEP individuals. The Trial Court will work closely with LEP individuals and community groups to develop and refine education programs for judges, clerks, and other court staff.

**Action Steps:**

- The Trial Court will add to the mandatory new employee orientation a training session on language access and cultural competency.
- The Trial Court will provide specific training on language access and cultural competency to management, sessions clerks, and other court staff members who interact with LEP individuals, including training on how to work with interpreters.
- The Trial Court will explore training staff on how to “bundle” cases that need an interpreter, an effective way of extending interpreter availability and resources.

*Judicial education.* Judicial education will focus on efficient interaction and ways to maximize mutual communication, as well as practical knowledge on how to work efficiently with an interpreter. Judges currently have bench cards that explain some of this information, but training sessions will expand their knowledge of the subject and ensure access to justice for all. Mandatory judicial education will ensure that judges are aware of the legal requirements of providing language access, and the ramifications of failing to provide these services.

**Action Step:**

- The Trial Court will develop mandatory judicial education on language access and cultural competency.

**G. Remote Technology Standards**

High-quality remote interpreting technology can allow the court to increase the quality, availability, and efficiency of court interpreters while controlling costs and delay. Courts already use telephone interpretation through Language Line, and the Trial Court is exploring video remote interpretation as well.

**Action Step:**

- The Trial Court will develop specific standards for telephone and video remote interpreting. These standards will include contributions from OCIS, TCIS, and Trial Court judges, and will be drafted in consultation with the Trial Court videoconferencing policy.

**H. Court Facilities**

As the Trial Court builds new facilities, language access is a core concern. With that in mind, the Trial Court has added space at attorney tables for interpreters, and has reconfigured interpreter seating in the courtroom so as not to block the jury's view of the witness. All courtrooms have JAVS technology for voice recording and sound amplification. New courtrooms are also designed with an acoustical consultant to maximize sound quality. Staff interpreters have been provided office space in all new courthouses. These steps will dramatically increase the quality and accuracy of language services provided by the Trial Court and will ensure meaningful access for all LEP individuals.

**Action Steps:**

- The Trial Court will devote resources to personal workstations for staff interpreters, including telephones and computers.
- The Trial Court will explore the use of electronic signage in its court complexes, which would enable courts to modify translated information to accommodate changing language needs.

**VI. OUTREACH AND COLLABORATION**

Outreach is an important component of meaningful access to LEP communities. Relevant outreach includes information concerning the availability of interpreters, new language access tools, the Language Access Plan, and solicitation of feedback to the courts in implementing this and future plans.

The Trial Court has developed lists of stakeholders to contact about informing LEP individuals of their right to an interpreter, as well as lists of media sources that provide news to different linguistic communities.

**Action Steps:**

- The Trial Court will establish regular communications regarding language access services to community groups who work with or include immigrant and refugee communities.
- The Trial Court will disseminate press releases to non-English media and, when possible, translate those releases.
- The Trial Court will explore engaging with local non-English radio and other outlets for conversations with the community.

## VII. LAP IMPLEMENTATION, MONITORING, AND EVALUATION

### A. Implementation

A copy of this approved Language Access Plan will be kept on file with the Office of Court Management (OCM). The Trial Court Language Access Plan will also be posted on the Trial Court's website.

#### Action Steps:

- The Trial Court will ensure that the Language Access Plan is translated into Spanish and other languages as resources allow.
- Within ninety (90) days of the approval of this Plan, the Chief Justice, in consultation with the Court Administrator and chair of the Language Access Advisory Committee, will designate a Language Access Coordinator. The Coordinator will coordinate implementation of the Language Access Plan, respond to language access complaints, and serve as point person for the Trial Court in the national Council of Language Access Coordinators (CLAC) of the National Center for State Courts. The Coordinator will regularly report to the Chief Justice and chair of the Language Access Advisory Committee on implementation of the plan, and will make recommendations to the implementation working group.
- Within ninety (90) days of the approval of this Plan, the Trial Court shall designate a Trial Court working group to oversee the Language Access Plan implementation and develop action steps, clear goals, specific protocols, and concrete deadlines to implement the various components of the Plan.
- The Trial Court will assess the need to reconstitute the Committee for the Administration of Court Interpreters for the Trial Court, pursuant to M.G.L. c. 221C, §7.

*Funding.* The Trial Court is committed to increasing language access to all LEP persons and will continue to prioritize funding for interpreters and other related expenses as appropriate in the Judiciary's budget.

#### Action Steps:

- The Trial Court will communicate with the legislature regarding language access in the courts.
- The Trial Court will aggressively pursue grants that support language access.

### B. Monitoring and Evaluation

On a semi-annual basis the Trial Court language access working group will submit a status report on the Language Access Plan to the Language Access Advisory Committee, which will review the effectiveness of the Language Access Plan, and evaluate potential changes to improve this Plan and its policies and procedures. The evaluation will include identification of any problem areas and the development of corrective action strategies. Any revisions made to the plan will be posted on the court system website.

## **VIII. APPROVAL**

The Massachusetts Trial Court Language Access Plan has been approved by Chief Justice for the Trial Court Paula Carey, Court Administrator Harry Spence, and the Language Access Advisory Committee, in consultation with the Supreme Judicial Court.