

Hawai'i State Judiciary

Language Access Plan for Persons with Limited English Proficiency

FY 2019-2022

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I. INTRODUCTION: HAWAI‘I’S LIMITED ENGLISH PROFICIENT (LEP) POPULATION

Hawai‘i has a diverse mix of people and cultures representing numerous languages and dialects. The demographic composition of the Judiciary’s eligible client population has changed dramatically, as both the number of immigrants and the rate of immigration continue to climb. In addition, Hawai‘i’s linguistic makeup is becoming more and more diverse as migrants come from many new countries, bringing many new languages and dialects, particularly among the Asian and Pacific Island languages.

Hawai‘i has one of the highest relative proportions of non-English speakers in the nation. Despite its isolated location in the middle of the vast Pacific Ocean more than 2,500 miles from the continental United States, Hawai‘i has a relatively large limited English proficient population. Hawai‘i’s limited English proficient population increased 27% from 246,735 in 2013 to 315,570 in 2019.¹ In 2019, roughly one in five or 18.5% of Hawai‘i’s total population were foreign born, ranking it sixth among all states.² Approximately 19.7% of Hawai‘i’s foreign born population reported that they speak English “not well” or “not at all”.³ Individuals who speak English less than “very well” are considered to be limited English proficient (LEP).

According to the U.S. Census Bureau American Community Survey 2019 (1-year Estimates), approximately one in four or 27.8% of Hawai‘i residents five years and older, speak a language other than English at home, ranking it eighth among all states.⁴ Of those, 42.6% reported that they speak English less than “very well,” ranking Hawai‘i second (tied with New York) among

¹ U.S. Census Bureau, 2019: American Community Survey 1-Year Estimates Data Profiles Hawaii (“2019 ACS(1)”), Tbl. B06007, Place of Birth By Language Spoken at Home and Ability to Speak English in the United States, *available at* <https://data.census.gov/cedsci/table?q=B06007%3A%20PLACE%20OF%20BIRTH%20BY%20LANGUAGE%20SPOKEN%20AT%20HOME%20AND%20ABILITY%20TO%20SPEAK%20ENGLISH%20IN%20THE%20UNITED%20STATES&g=0400000US15&tid=ACSDT1Y2019.B06007>

² 2019 ACS(1), Tbl. DP02, SELECTED SOCIAL CHARACTERISTICS IN THE UNITED STATES, *available at* <https://data.census.gov/cedsci/table?q=dp02&g=0100000US%240400000&tid=ACSDP5Y2019.DP02> (State ranking table shows Hawai‘i with 18.5% of its population Foreign Born, ranked sixth, after California, New York, New Jersey, Florida, and Nevada).

³ 2019 ACS(1), Tbl. B16005, NATIVITY BY LANGUAGE SPOKEN AT HOME BY ABILITY TO SPEAK ENGLISH FOR THE POPULATION 5 YEARS AND OVER, *available at* <https://data.census.gov/cedsci/table?q=B16&g=0100000US%240400000&d=ACS%201-Year%20Estimates%20Detailed%20Tables&tid=ACSDT1Y2019.B16005>.

⁴ 2019 ACS(1), Tbl. S1601, Language Spoken at Home, *available at* <https://data.census.gov/cedsci/table?q=language%20spoken%20at%20home&g=0100000US%240400000&tid=ACSDT1Y2019.S1601> (state ranking table shows Hawai‘i with 27.8% of its population 5 years and older who speak a language other than English at home, ranked eighth, after California, Texas, New Mexico, New Jersey, Nevada, New York and Florida).

all states.⁵ Hawai‘i along with the District of Columbia are the two states where the largest racial or ethnic groups are minority groups.⁶ Hawai‘i has the largest minority population (77%) of all states.⁷ Nearly 22% of the Asian and Pacific Island language speakers in Hawai‘i speak a language other than English at home, and of those, 49% speak English less than “very well.”⁸ Hawai‘i has the highest level of compact migrant resident populations at 26% of the estimated 94,000 compact migrants in the United States during the period from 2013 to 2018.⁹ Within the four states that comprise the Federated States of Micronesia (Chuuk, Kosrae, Pohnpei, and Yap) alone, 17 languages and dialects are spoken.

Many of Hawai‘i’s foreign-born residents are considered to be LEP and are therefore subject to protection under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *Prohibition Against Exclusion from Participation in, Denial of Benefits of, and Discrimination Under Federally Assisted Programs on Ground of Race, Color, or National Origin* (“Title VI”) and Hawai‘i’s Language Access Law, codified as Hawai‘i Revised Statutes (HRS) chapter 371, part II, §§ 371-31 to –37 (repealed 2012), Act 201 of July 3, 2012 (recodified as HRS ch. 321C). The United States Department of Justice (DOJ) has defined LEP persons as individuals for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English.¹⁰ This includes those individuals who reported that they speak English less than “very well” on the Census.

A person may not be LEP in all situations. A person may be able to go shopping, catch the bus, and get around the community with their level of English skills. However, due to the formal court setting, difficult legal language, and significant impact a court case can have on people’s lives, that person may not be able to navigate the court system or meaningfully participate in

⁵ 2019 ACS(1), Tbl. S1601, Language Spoken at Home. Nebraska ranked first with 42.7% of its residents who speak a language other than English, reporting that they speak English less than “very well”.

⁶ U.S. Census Bureau, 2019 ACS 1-year estimates, ACS Demographic and Housing Estimates, Race, Total Population, One Race, Tbl. DP05, *available at* <https://data.census.gov/cedsci/table?q=Maryland%20&g=0100000US%240400000&tid=ACSDP1Y2019.DP05; Race and Ethnicity Prevalence by State: 2020, available at https://www.census.gov/content/dam/Census/library/stories/2021/08/2020-united-states-population-more-ethnically-diverse-than-2010-figure-1.jpg>

⁷ 2020: DEC Redistricting Data (PL-94-171), *available at* https://data.census.gov/cedsci/table?q=largest%20minority%20population&g=0100000US%240400000_0400000US15&tid=DECENNIALPL2020.P1

⁸ 2019 ACS(1), Tbl. S1601, Language Spoken at Home.

⁹ U.S. Gov’t Acct’g Off., Cong. Rpt. No. GAO-20-491, Report to the Chairman of the Committee on Energy and Natural Resources, U.S. Senate, Compacts of Free Association, Populations in U.S. Areas Have Grown with Varying Reported Effects (June 2020), *available at* <https://www.gao.gov/assets/gao-20-491.pdf>, pp. 13-16. The report uses the term compact migrants to refer to “citizens of the Federated States of Micronesia (Micronesia), the Republic of the Marshall Islands (Marshall Islands), and the Republic of Palau (Palau) as well as their U.S.-born children and grandchildren younger than 18 years—live and work in the United States and its territories[.]” Based on data from the Census Bureau surveys from 2005-2009 and 2013-2017 and an enumeration in 2018, the report concluded that “the combined compact migrant populations in U.S. areas grew by an estimated 68 percent, from about 56,000 to about 94,000.”

¹⁰ Limited English Proficient (LEP) persons are “individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.” U.S. Dep’t of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455, 41459 (June 18, 2002).

legal proceedings with the same level of English skills, and thus may be considered a court customer with LEP. Language for individuals who are LEP can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federal agencies and federally funded programs and activities.

Hawai‘i’s recent demographic changes exacerbate the difficulty of responding to the language needs of the Judiciary’s client population. The Hawai‘i State Judiciary is cognizant of the federal and state legal requirements associated with individuals who are LEP and has developed this plan accordingly to ensure their equal access to court services in a manner that is responsive to diverse cultural and communication needs.

II. LEGAL BASES FOR LANGUAGE ACCESS

Title VI provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” Different treatment based upon a person’s inability to speak, read, write, or understand English may be national origin discrimination under Title VI. The Department of Justice issued Guidance on the implementation of Title VI in 2002.¹¹ Further guidance is provided in the U.S. Department of Justice letter to state courts, issued on August 16, 2010.¹²

On August 11, 2000, President William J. Clinton signed into law Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (“EO 13166”), requiring all agencies receiving federal funds to address the needs of persons who, due to their status as having limited English proficiency (LEP), cannot fully and equally participate in the agency’s programs and activities. Whereas Title VI creates obligations for recipients of federal funds to provide meaningful access for persons with limited English proficiency (LEP) to federally conducted programs, EO 13166 creates obligations for federal agencies to do the same.¹³

On July 10, 2006, the Hawai‘i State Legislature enacted Hawai‘i’s Language Access Law, now Hawaii Revised Statutes (HRS), Chapter 321C, to further reduce language barriers that can preclude individuals who have LEP from meaningful access to services, programs, and activities offered by the State of Hawai‘i or by state-funded programs. Hawai‘i’s Language Access Law specifically requires each state agency or covered entity (entities that receive state funds) to establish a language access plan (LAP).¹⁴ State agencies receiving federal financial assistance,

¹¹ U.S. Dep’t of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (June 22, 2002) (“DOJ Guidance”).

¹² U.S. Dep’t of Justice, Letter to Chief Justices/State Court Administrators (Aug. 16, 2010), available at http://www.lep.gov/final_courts_ltr_081610.pdf.

¹³ See, e.g., U.S. Dep’t of Justice, Memorandum to Heads of Federal Agencies, General Counsels and Civil Rights Heads re: Federal Government’s Renewed commitment to Language Access Obligations under Executive Order 13166 (Feb. 17, 2011), available at http://www.justice.gov/crt/about/cor/AG_021711_EO_13166_Memo_to_Agencies_with_Supplement.pdf.

¹⁴ Hawai‘i Revised Statutes (HRS) § 321C-4.

including the Judiciary, were required to file an initial LAP by July 1, 2007, and an updated LAP every two years thereafter.¹⁵

III. FOUR-FACTOR ANALYSIS REQUIRED TO DETERMINE THE EXTENT OF LANGUAGE ASSISTANCE TO BE PROVIDED

The U.S. Department of Justice *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (“DOJ Guidance”) issued pursuant to Title VI and EO 13166, is intended to assist DOJ-funded programs, including those in the Judiciary, to provide meaningful access to persons with LEP. To determine if language access services must be provided, and if so, the extent of those services, requires an individualized analysis that balances the following four factors:

- 1) The number or proportion of persons with limited English proficiency (LEP) that are eligible to be served or likely to be encountered by the program or grantee;
- 2) The frequency with which individuals with LEP 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 Judiciary and associated costs.

Under this analysis, if the Judiciary determines that it requires additional Judiciary staff to respond to the language needs of persons with LEP because more reasonable or appropriate means of providing these services are not available, the Judiciary, consistent with state and federal laws, shall hire qualified staff who are bilingual to fill existing, budgeted, vacant public contact positions.¹⁶ In a report submitted to the Hawai‘i Office of Language Access, the Judiciary identified the public contact positions within its organization statewide in which interfacing with state court users constitutes a significant part of the incumbent’s regularly assigned job duties. *See* Attachment A, Hawai‘i State Judiciary, Public Contact Positions Survey Report (Jan. 5, 2009). The Judiciary recognizes the need to employ new and innovative recruitment strategies to ensure departments have the resources needed to respond to increased language needs by using bilingual staff. Although having sufficient bilingual staff within each service area to obviate the need for contracted interpreting services is desired, this ideal work environment has not been achieved to date. The Judiciary remains committed to looking at alternative ways to utilize the education, training, and work experience of its bilingual staff as a way of meeting the increasing language needs of its court customers with LEP in a manner that is culturally and linguistically appropriate.

Upon determining the language assistance services that are appropriate to provide meaningful access to the agency’s programs, services, and activities, the DOJ recommends that a Language Access Plan (LAP) be developed to address the identified language needs of the population with LEP that is served, including the following: (1) identifying LEP individuals who need language assistance; (2) developing language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LAP.¹⁷

¹⁵ *Id.*

¹⁶ HRS § 321C-3(d).

¹⁷ DOJ Guidance, *supra* note 11, at 41464-65; *see also* U.S. Dep’t of Justice, Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs (May 2011), *available at* http://www.lep.gov/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf.

The Judiciary developed this LAP to identify the needs of the community it serves and to ensure that LEP persons have meaningful access to Judiciary programs, services, and activities in compliance with Title VI, EO 13166, and HRS Chapter 321C, in a manner that is culturally and linguistically appropriate. The Judiciary has also designated the Program Director of the Office on Equality and Access to the Courts as the Language Access Coordinator, responsible for overseeing the implementation and evaluation of language access services under the LAP. *See* Section X below.

The Judiciary collaborated with the U.S. Department of Justice from September 2013 to March 2015 to better meet the growing needs of court users requiring language assistance services in court operations and proceedings. During this technical assistance review period, the Judiciary updated and expanded its Language Assistance Policy; provided mandatory training for staff and judges; refined its court interpreter assignment policy; redoubled its efforts to educate local court interpreter assignment coordinators; and implemented an awareness campaign on its webpage to increase the public’s knowledge about how to access language services, including translating information on the Language Access page into 14 of the most frequently encountered languages in the Hawai‘i State Courts. The Judiciary’s multilingual website was voted #1 in the National Association of Court Management’s Top 10 Court Technology Solutions Awards in 2016, in part for ease of navigation and provision of information in multiple languages, many of which are considered “rare”.

The Judiciary’s progress in providing language access was recognized by the Justice Index 2016 Findings, released by the National Center for Access to Justice, which ranked Hawai‘i number one among all state courts in the country for providing support for people with limited English proficiency and in the top three for practices aimed at making access to justice a reality for all people.

IV. LIMITED ENGLISH PROFICIENT POPULATIONS ELIGIBLE TO BE SERVED BY STATE COURTS

The diversity of races and cultures in Hawai‘i is reflected in the makeup of state court users. Indicative of a growing population with limited English proficiency (LEP) are the Judiciary’s annual expenditures for court interpreters, which have risen dramatically due both to greater demand for interpreting services, as well as increased interpreter pay rates initially implemented as part of the Judiciary’s Court Interpreter Certification Program in FY 2007-2008.

In 2007, the Judiciary conducted a self-assessment to identify the points of public contact in each of its programs and to determine the language assistance needs of those programs to better respond to the cultural and linguistic diversity of populations served. The Judiciary compiled data on the LEP populations that were served, the primary points of public contact with the state courts, the current services in place to meet the needs of these populations, and the availability of oral language services and translated documents. The Judiciary also reviewed its signage, and how staff and LEP court customers understand the right to free language access services.

According to the most recent data compiled, from FY 2019, the Judiciary provided oral language services via court interpreting to LEP persons in state courts in 10,959 court proceedings, with expenditures of \$863,815.

Top Interpreted Languages - Statewide FY 2019						
Rank	Language	\$ Paid		Rank	Language	# of Proceedings
1	Chuukese	\$151,948.08		1	Chuukese	3,612
2	Spanish	\$131,920.60		2	Ilokano	1,220
3	Ilokano	\$89,238.89		3	Marshallese	939
4	Marshallese	\$70,445.83		4	Korean	894
5	American Sign Language	\$62,822.05		5	Spanish	878
6	Korean	\$61,564.04		6	Mandarin	616
7	Mandarin	\$58,286.11		7	Tagalog	473
8	Japanese	\$47,770.71		8	Japanese	469
9	Vietnamese	\$37,801.14		9	Vietnamese	417
10	Tagalog	\$36,453.42		10	American Sign Language	246
11	Samoan	\$23,382.15		11	Cantonese	231
12	Cantonese	\$16,410.58		12	Samoan	230
13	Tongan	\$16,085.47		13	Tongan	169
14	Pohnpeian	\$14,868.84		14	Pohnpeian	168
15	Thai	\$6,499.04		15	Kosraean	85

Top Interpreted Languages-First Circuit, FY 2019						
Rank	Language	\$ Paid		Rank	Language	# Proceedings
1	Chuukese	\$132,884.48		1	Chuukese	2,960
2	Ilokano	\$61,331.48		2	Korean	854
3	Korean	\$57,607.89		3	Ilokano	720
4	Mandarin	\$49,841.75		4	Mandarin	558
5	Japanese	\$43,070.86		5	Japanese	416
6	Vietnamese	\$35,144.64		6	Tagalog	394
7	American Sign Language	\$32,377.57		7	Vietnamese	376
8	Marshallese	\$31,660.16		8	Marshallese	291
9	Spanish	\$31,513.36		9	Cantonese	224
10	Tagalog	\$31,325.08		10	Samoan	210
11	Samoan	\$21,480.00		11	Spanish	176
12	Cantonese	\$15,455.00		12	American Sign Language	134
13	Tongan	\$11,965.17		13	Tongan	114
14	Laotian	\$5,551.80		14	Pohnpeian	59
15	Pohnpeian	\$3,856.01		15	Kosraean	50

Top Interpreted Languages-Second Circuit, FY 2019						
Rank	Language	\$ Paid		Rank	Language	# Proceedings
1	American Sign Language	\$14,971.31		1	Spanish	262
2	Spanish	\$14,398.60		2	Ilokano	238
3	Ilokano	\$10,356.33		3	Marshallese	95
4	Marshallese	\$4,342.85		4	American Sign Language	50
5	Pohnpeian	\$3,239.20		5	Pohnpeian	40

Top Interpreted Languages -Third Circuit, FY 2019						
Rank	Language	\$ Paid		Rank	Language	# Proceedings
1	Spanish	\$85,046.29		1	Chuukese	625
2	Marshallese	\$27,847.42		2	Marshallese	503
3	Chuukese	\$17,844.95		3	Spanish	430
4	American Sign Language	\$14,715.83		4	Ilokano	152
5	Ilokano	\$11,419.62		5	American Sign Language	60

Top Interpreted Languages - Fifth Circuit, FY 2019						
Rank	Language	\$ Paid		Rank	Language	# Proceedings
1	Marshallese	\$6,595.40		1	Ilokano	110
2	Ilokano	\$6,131.46		2	Marshallese	50
3	Pohnpeian	\$5,270.83		3	Pohnpeian	36
4	Mandarin	\$5,098.51		4	Tagalog	21
5	Yapese	\$1,337.10		5	Mandarin	18

V. PROTOCOL FOR PROVIDING LANGUAGE SERVICES

As part of the Judiciary’s commitment to promoting and providing language access for limited English proficient (LEP) court customers in a manner that is culturally and linguistically appropriate, the Judiciary adopted Judiciary Policy #12:

The Hawai‘i State Judiciary is committed to providing meaningful access to court processes and services to persons with limited English proficiency. In all case types, the Judiciary shall reasonably provide, free of charge, and in a timely manner, competent court interpreters for parties, witnesses and individuals with a substantial interest in a case. It shall also provide language assistance services at points of contact with the Judiciary, including over-the-counter and over-the-telephone encounters for all Judiciary-related business. The Judiciary shall notify the public of the Judiciary's language assistance commitment.

The policy is posted on the Judiciary website on the language access page. *See* Attachment B Language Identification/Notice Materials. In 2014 as part of mandatory statewide staff training on language access, the Office on Equality and Access to the Courts (OEAC) developed a bench card for Judiciary staff, *Language Access Services: A Guide for Staff*, which contains this policy and the protocol for providing language services discussed in this section. *See* Attachment H.

A. PUBLIC NOTICE OF THE RIGHT TO AN INTERPRETER

To ensure that individuals with LEP are afforded meaningful access to the courts in a culturally and linguistically appropriate manner, it is important for the Judiciary to inform them of their right to an interpreter. *See* Attachment B, Language Identification/Notice Materials, for the materials discussed herein.

Signage. Strategically placed multilingual signs and/or pamphlets at a courthouse or court facility are a functional and effective method to inform individuals with LEP of where and how to request language assistance. Signage is, and will continue to be made available to staff at specified court support service locations identified as primary points of public contact. *See* Section VI.(D), below.

In addition, at courthouses statewide, court users are greeted by multilingual *Welcome Banners* printed in English and 14 non-English languages. *See* Attachment B, Multilingual Welcome Banner.

Internet. In response to the diverse cultural and linguistic needs of court users, the Judiciary website has a multilingual notice of the availability of language access services in English and 14 non-English languages. *See* Attachment B, Multilingual Notice of Availability of Language Services. A person with LEP can directly access the multilingual notice by clicking on a list of languages on every page of the Judiciary’s website. The notice informs the public of the right to an interpreter at no cost.

Multilingual language identification cards (Language ID Cards) are available in courthouses statewide and on the Judiciary’s website. *See* Attachment B, Language ID Cards. The cards are printed in English and 14 non-English languages. Individuals who have LEP can request an interpreter by showing the appropriate Language ID Card to staff or writing in the name of their language. Judiciary staff are trained to respond to the cultural and linguistic needs of LEP court

customers and can more efficiently provide appropriate language services without embarrassment or undue delay to these customers.

B. PROCEDURE FOR PROVIDING LANGUAGE SERVICES FOR IN-COURT PROCEEDINGS

The Judiciary, through its Administrative Director of the Courts, OEAC, and the Hawai'i Supreme Court Committee on Court Interpreters and Language Access, is committed to providing the most qualified interpreter reasonably available to afford LEP parties, witnesses and individuals with a substantial interest in a case, with meaningful access to the courts in a culturally and linguistically appropriate manner in all case types.

OEAC serves as the platform for planning and policy-making in the area of court interpreting within the Hawai'i State Courts. Although OEAC provides guidance to Judiciary staff regarding court interpreting services obtained and used in the Hawai'i State Courts, direct provision of interpreting services, including scheduling and payment, falls under the responsibility of the court operations of each judicial circuit within the Judiciary.

1. Determine the Need for an Interpreter in the Courtroom

Hawai'i Supreme Court Rules establish standards for determining the need for a court interpreter in a legal proceeding. The rules provide that:

An interpreter is needed if, upon examination by the court,

- (1) a party or witness is unable to speak English so as to be understood directly by counsel, court, and jury, or
- (2) if a party is unable to hear, understand, speak, and/or use English sufficiently to comprehend the proceedings and to assist counsel in the conduct of the case.¹⁸

There are various ways that the Judiciary determines whether a court customer is LEP and needs language services to participate in a legal proceeding. Identifying the need for an interpreter in a legal proceeding and providing interpreting services for such a proceeding may initially occur upon the request of the LEP court customer or someone on their behalf, or by the request of an authorized court clerk, judicial assistant, bailiff, or other court staff. Non-Judiciary staff, including a public defender, prosecuting attorney, private attorney, or community advocate, may also inform the court of a client's need for an interpreter in a particular case. If there is no request for an interpreter, but it appears that an individual may be LEP, the presiding judge may respond to the individual's cultural and linguistic needs by providing an interpreter to ensure equal access to the courts. The presiding judge has the ultimate responsibility for authorizing the provision of an in-court interpreter in a legal proceeding.

2. Obtain Court Interpreter Services

Once it has been determined that an individual requires language services to meaningfully participate in a legal proceeding, Judiciary policy requires the provision of the most qualified, reasonably available interpreter to provide such services. Designated Judiciary staff are trained

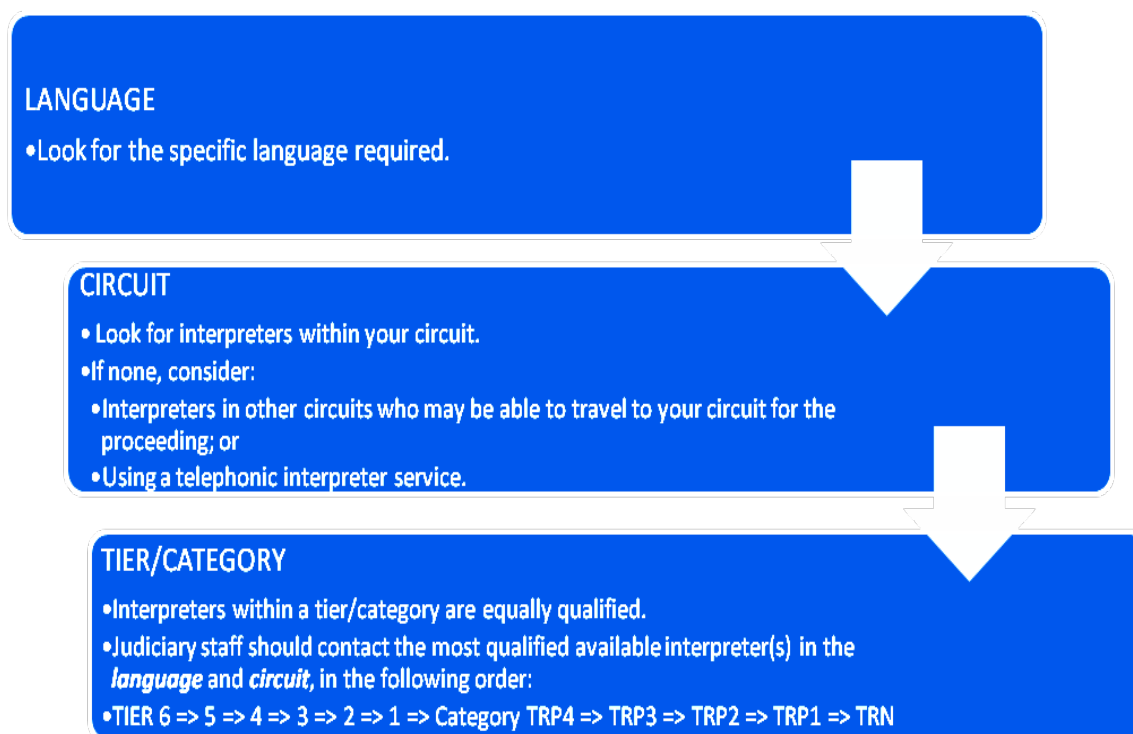
¹⁸ Order Adopting the Policies for Interpreted Proceedings in the Courts of the State of Hawai'i, filed June 22, 1995), in Hawai'i Rules for Certification of Spoken &

Sign Language Interpreters, at App. B (Haw. S. Ct., adopted July 11, 2007, effective nunc pro tunc July 1, 2007), available at <http://www.state.hi.us/jud/ctrules/cssli.pdf>.

to use the Court Interpreter Registry (“Registry”) to contact and obtain the most qualified interpreter who is reasonably available for a particular assignment in any given language.

The Registry is a statewide list of interpreters eligible to interpret in the state courts. See Attachment D – Court Interpreter Registry. Interpreters are listed by Language, Circuit, and Tier/Category. Within each Tier/Category, interpreters are listed in reverse alphabetical order by last name.¹⁹ Judiciary staff should contact interpreters in the required language within the specific circuit, beginning with interpreters in the highest available tier, then the next highest tier(s), and so on from Tier 6/Certified Master Interpreters to Tier 1/Registered Interpreters. The chart below outlines the procedure for obtaining a court interpreter from the Registry for in-court proceedings.

Procedure for Finding a Court Interpreter Using the Court Interpreter Registry



The court may appoint interpreters who are not listed on the statewide Registry only when no one on the Registry is available. In those situations, Judiciary staff should use transitional interpreters who have applied to the Certification Program but have not yet satisfied the mandatory minimum requirements and are thus not listed on the Registry. All contracted interpreters are expected to adhere to the ethics and competency standards adopted by the Judiciary. All transitional interpreters are required to complete a Declaration agreeing to abide by these standards.

¹⁹ After evaluation of requests by court interpreters, the Judiciary placed the Registry list in reverse alphabetical order by last name, as of September 1, 2007.

COVID-19 pandemic impacts on court interpreting services. On March 4, 2020, Governor David Ige declared a state of emergency in Hawai‘i in response to the public health threat posed by COVID-19. Since that time, the Judiciary has responded by postponing matters if necessary, moving proceedings to a remote format as feasible, and adjusting in-person operations to protect court users and staff. As courts increasingly moved to holding hearings remotely via Zoom or WebEx, it became necessary for interpreters to learn new skills to be able to effectively provide interpreting services remotely. OEAC conducted two trainings in November 2020, to assist interpreters in learning how to navigate the Zoom and WebEx platforms and tips on how to effectively interpret in a remote hearing setting.

Telephone interpreter. If an interpreter is not available to appear in-person through this process, the court may suspend the case until an interpreter is available or consider using - for limited purposes - a telephone interpreter from the Judiciary’s contracted vendor, Language Link. The chart below, *Handling LEP Speakers in the Courtroom*, summarizes this procedure. In response to COVID-19 pandemic, OEAC conducted training for District Court staff (court clerks and bailiffs) on how to use a telephone interpreter in a remote court hearing via Zoom or WebEx. In order to effectively connect the telephone interpreter to the webconference, it was necessary to install an additional telephone line in each courtroom to ensure that the audio portion of the webconference was not impacted when calling the vendor for a telephone interpreter.

Call OEAC. If an in-person or telephone interpreter is not available, Judiciary staff should contact OEAC as early as possible prior to the scheduled court date, for assistance in securing the resources necessary to meet the language needs of the individual with LEP for an in-court proceeding. When individuals require access to services within short time frames, Judiciary staff - in consultation with a supervisor, manager, or court administrator and the Judiciary’s Language Access Coordinator (LAC) - shall take reasonable actions to ensure that court customers with LEP have access to language access services as needed.

Data Collection. At the end of the transaction, Judiciary staff shall log the LEP encounter and the service provided (or requested) on the User Log-LEP/Language Services form. *See* Section VII; *see also*, Attachment G - Language Access / Data Collection Reporting Tool.

The above protocol is intended to ensure that LEP parties, witnesses, or persons with a substantial interest in a case are provided with appropriate language services to facilitate their meaningful participation in a legal proceeding in a manner that is culturally and linguistically appropriate. There is no charge to the court customer with LEP for court-ordered interpreter services.

It is inappropriate to allow the use of friends or family members, particularly minors, as interpreters in a legal proceeding in court. The better practice, in cases where an LEP defendant or witness requires an interpreter and there is no in-person interpreter or telephone interpreter available, is to continue the hearing to a future date and to order the provision of an interpreter in the needed language, as this authorizes Judiciary staff to retain an interpreter by using the Court Interpreter Registry. Nothing in this plan precludes a party from bringing their own, privately-retained interpreter to court in a particular case; provided that, in such cases, the court finds the interpreter qualified to interpret and the cost of the court interpreter is borne by the party, not the court.

Request for an interpreter. In addition to Judiciary staff arranging for a court interpreter, court customers with LEP can request an interpreter for court. The Judiciary collaborated with the

Hawai‘i Access to Justice Commission to use grant funding the Commission obtained from the American Bar Association to develop an informational flyer to explain the process of requesting an interpreter for a court matter. This information is available in English and 6 non-English languages on the Judiciary’s website (Language Access tab).

First Circuit District Courts have implemented a pilot project that allows the public to request an interpreter before the hearing. If a case is scheduled for hearing in any of the District Courts in the First Circuit (Honolulu, ‘Ewa, Kāne‘ohe, Wahiawa, Wai‘anae), a party, witness, or any other person can submit an Interpreter Request form before the hearing date, requesting that an interpreter be provided for an LEP party or witness. Completed forms can be submitted online via Document Drop service or in person at the Legal Documents counter at any District Court on O‘ahu.

Handling LEP Speakers in the Courtroom

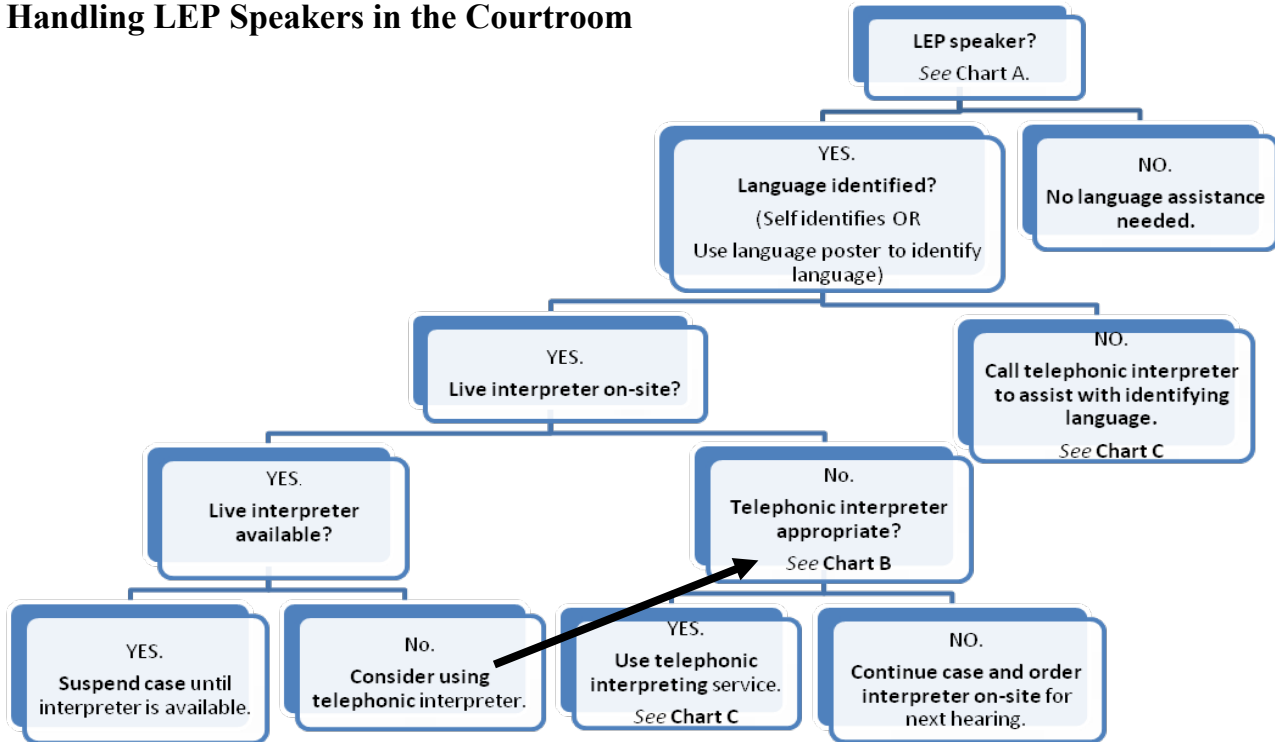


CHART A LEP Speaker: Assessment	CHART B Whether it is Appropriate to Use a Telephone Interpreter	CHART C Using a Telephone Interpreter in Court
<p>STANDARD: An interpreter is needed if the speaker is:</p> <ol style="list-style-type: none"> 1) Unable to speak English to be understood by counsel, court, and jury; or 2) Unable to hear, understand, speak and/or use English sufficient to comprehend proceedings and assist counsel. <p>DETERMINING FACTORS:</p> <ol style="list-style-type: none"> 1) Non-responsiveness 2) Ask open-ended questions requiring narrative responses 3) Assess: <ul style="list-style-type: none"> • Inappropriate grammar • Awkward vocabulary • Lack of fluency • Unintelligible accents • Repeated statements • "Blank look" <p>SAMPLE QUESTIONS:</p> <ol style="list-style-type: none"> 1) Please state your (name, address, age, birthdate, place) for the record. 2) Where were you born? 3) What is your first language? 	<p>WHEN TO USE TELEPHONE INTERPRETER IN COURT:</p> <ul style="list-style-type: none"> • When proceedings are short and non-evidentiary (best suited for short proceedings under 15 minutes) • When a rare language is needed • When no certified or qualified interpreter is available • When local interpreters have conflicts of interest • When a hearing must be held before an interpreter can get there, such as for TRO petition and hearings • When interpreter travel costs are high relative to length or importance of hearing <p>WHEN NOT TO USE A TELEPHONE INTERPRETER:</p> <ul style="list-style-type: none"> • When there is a certified or qualified interpreter close by • For intensive cross-examination or emotionally charged situations • For proceedings longer than 30 minutes or proceedings involving too many people • During trials • Any time that communication is difficult to establish adequately • Any time quality of interpretation would be compromised 	<p>COURTROOM IS HARD-WIRED (i.e. telephone connected to public announcement (P.A) system):</p> <ol style="list-style-type: none"> 1) Activate telephone connection to PA system (30 seconds) 2) Call Language Link – see below. <p>COURTROOM IS NOT HARD-WIRED:</p> <p>1) SET UP EXTERNAL GROUP SPEAKERPHONE in courtroom (5-10 minutes depending on staff know how)</p> <ul style="list-style-type: none"> • Court staff obtains equipment from designated staff or locations • Connect speakerphone to breakout box • Connect breakout box to CISCO phone • Connect breakout box to power outlet • Place speakerphone on ledge fronting Judge • Place witness stand microphone on ledge directed towards speakerphone <p>2) CALL Language Link 1-877-650-8014 (toll free)</p> <ul style="list-style-type: none"> • Subaccount Number (4 digits) • Language needed • When interpreter is on the telephone: <ul style="list-style-type: none"> • Qualify the interpreter • Swear in the interpreter

C. PROCEDURE FOR PROVIDING LANGUAGE SERVICES OUTSIDE OF THE COURTROOM

In the course of serving the public, situations may arise where LEP individuals are unable to negotiate through court service centers and/or programs without the assistance of an interpreter. They may come into contact with Judiciary staff in court support services primarily via the telephone or in person.

In order to ensure that LEP individuals are not hindered in accessing identified Judiciary programs, services, and activities, the Judiciary will make reasonable efforts to provide an interpreter, free of charge, to court customers with LEP outside of the courtroom. Judiciary staff should follow the steps below to identify and provide language services in a manner that is culturally and linguistically appropriate to LEP court customers in settings outside of the courtroom.

Data Collection. At the end of each encounter with a court customer with LEP, Judiciary staff shall log the encounter and the service provided (or requested) on the User Log-LEP/Language Services form. *See* Section VII.

1. *Identify the Language Needs*

Judiciary staff helping a person with LEP should attempt to determine what language that person speaks. To identify the language needs, Judiciary staff may rely on the self-report of the LEP individual, a friend or family member, or on the presentation of the Judiciary's Language ID Card indicating the LEP individual's name and language they speak. Alternatively, Judiciary staff may show the LEP individual an "If You Need an Interpreter" card or poster developed by the Hawai'i Office of Language Access.²⁰ *See* Attachment B, Language Identification / Notice Materials. Staff will allow the individual with LEP to review the card or poster, which directs them to point to the language for which they need an interpreter. In addition, language access signage informing individuals with LEP of the availability of language services in 24 languages is visibly displayed at specified court support services locations identified as primary points of public contact; these signs may also be used to help identify the specific language needs of the individual with LEP. Where Judiciary staff is unable to identify the language using the language access signage, "If You Need an Interpreter" card or posters, or Language ID cards, Judiciary staff can call the Judiciary's telephone interpreting service to help determine the specific language spoken by the individual with LEP. *See* Section V.C.3.

2. *Contact Accessible Bilingual Volunteer Staff*

The Judiciary currently maintains a workforce in excess of 1,900 staff statewide. Bilingual staff who are willing, on an as-needed basis, to assist the Judiciary by facilitating informal communication with LEP individuals in settings outside of the courtroom, are self-identified through a voluntary survey. Bilingual Judiciary volunteers, students, and interns may be available to work with Judiciary staff to meet the language needs of the Judiciary's LEP populations.

Judiciary bilingual staff, volunteers, students, interns, and temporary hire employees including law clerks, (collectively "staff") who are willing to facilitate informal communication with LEP individuals outside of the courtroom, complete the Bilingual Volunteer Staff Questionnaire form,

²⁰ The "If You Need an Interpreter" card/poster developed by the Hawaii Office of Language Access is translated into in 24 languages, including many of the Asian and Pacific Island languages encountered in Hawai'i, at [http://judintra/eac/EAC2_files/Language%20ID%20Rack%20Card%20\(print%20%20per%20page\).pdf](http://judintra/eac/EAC2_files/Language%20ID%20Rack%20Card%20(print%20%20per%20page).pdf).

which is available on the Judiciary Intranet in the Forms section and on the Equality and Access to the Courts (EAC) department page, and submit it to the OEAC. See Attachment C, Bilingual Volunteer Staff Questionnaire. Staff who submit the Questionnaire to OEAC are placed on the Bilingual Volunteer Staff List.

Bilingual staff must obtain supervisor approval before agreeing to provide language services when requested by Judiciary staff. The Judiciary will continue to develop criteria specific to departments, offices, or sections, as needed, to most effectively utilize the language skills of bilingual staff, as workload demands may prevent bilingual staff from assisting with language needs for out-of-court encounters with LEP individuals.

The Bilingual Volunteer Staff List (“Bilingual Staff List”)²¹ posted on the EAC intranet page, lists staff who, as needed and available, are willing to facilitate informal communication with LEP individuals to assist the Judiciary in fulfilling its mandate to provide meaningful language access outside of the courtroom. The list is confidential and for use by internal staff only; it is not for public use.

After the language needs of the LEP individual have been determined, Judiciary staff have been trained to contact the bilingual volunteer staff from the Bilingual Staff List. Staff will first contact a bilingual volunteer staff within the Judiciary nearest to that staff person’s location. If that bilingual volunteer staff is not available, then staff will contact another bilingual volunteer staff from the Bilingual Staff List. If none is available within the Judiciary, then staff should use the telephone interpreting service. As a general rule, a competent, in person interpreter is preferred over a telephone interpreter, however, given the limited availability of bilingual staff to service in person immediately, interpreting assistance is often conducted by telephone.

3. Utilize Contracted Telephone Interpreting Service

The Judiciary has contracted with a telephone interpreting service to provide on-demand oral interpreting services by telephone after a determination to provide language services is made based on the four-factor analysis stated in Section III. If an in-person interpreter within the Judiciary cannot be located or a bilingual staff person is not available, then staff should call the contracted telephone interpreter service. Telephone interpreting services are available for Judiciary staff statewide.

Training. OEAC conducted initial training on how to use the service and how to work effectively with a telephone interpreter, including training materials, for staff statewide prior to full implementation of telephone interpreting services in May 2011. In 2014, all Judiciary staff statewide were required to attend one of OEAC’s two-hour mandatory language access trainings, which include using the telephone interpreting service. OEAC continues to provide refresher training and training for new staff to support the use of the telephone interpreter service. Thus, most Judiciary staff statewide have been trained on the Judiciary’s language access policy and procedures for servicing persons with LEP who contact the courts.

Cost. The cost for telephone interpretation services continues to be borne by OEAC. Once usage trends materialize, it is anticipated that costs for the service may be borne by the specific court or department that uses the service.

²¹ The Bilingual Volunteer Staff List includes the names, non-English language, physical location and contact information of Judiciary staff, volunteers, students, interns, and temporary hires who have submitted the Bilingual Volunteer Staff Questionnaire.

Courtroom Upgrades. In addition to training on this service, in 2013, the Judiciary upgraded its courtrooms to support use of telephone interpreters in the courtroom when a live interpreter is not reasonably available. All courtrooms in the Judiciary’s judicial circuits (except Hana District Court) have direct telephone connection to the existing public address system and recording devices in each courtroom. Court staff have been trained on how to provide telephonic interpreting services in the courtroom. This enables judges to utilize remote interpreting by telephone interpreters and to support remote appearances for court proceedings.

D. RECORD LEP/LANGUAGE ACCESS DATA

In order to assist the Judiciary in identifying populations with LEP that are eligible to be served by the state courts, and ensuring the provision of language access services in a culturally and linguistically appropriate manner to eligible LEP groups, the Judiciary has implemented the LEP/Language Access Data Collection Project. Judiciary staff will record each encounter with an individual who has LEP, whether in court or outside of the courtroom. *See* Section VII.

E. SPECIAL SITUATIONS

1. *Language Not Listed on “If You Need an Interpreter” Card or Poster*

If the court customer with LEP speaks a language that is not listed on the “If You Need an Interpreter” card or poster, Judiciary staff should try to identify the language needs by calling the telephone interpreting service and asking for assistance in identifying the customer’s language. If this is not successful, then the staff should contact the Judiciary’s Language Access Coordinator (LAC) at (808) 539-4860 for further assistance.

2. *No Telephone Interpreter Available*

If the telephone interpreting service representative indicates that an interpreter is not available, staff should contact the Judiciary’s Language Access Coordinator (LAC) at (808) 539-4860 for assistance. Note: The telephone interpreting service provider cannot guarantee service in any language. However, staff can call in advance to try to preschedule a telephone interpreter in a particular language.

3. *Other Circumstances*

Use of family or friend is discouraged. In cases where language services cannot be provided through the methods listed above, Judiciary staff should contact the LAC at (808) 539-4860 for further assistance. Judiciary staff should not require, suggest, or encourage an individual with LEP to use a family member or friend as an interpreter. Minor children under the age of 18 should not be used to provide interpreting services. However, the exception is that a family member or friend may be used as an interpreter in instances of extreme urgency such as encounters where imminent danger or bodily harm may result if immediate communication is not had.

The Judiciary is committed to taking reasonable steps to ensure that LEP parties, witnesses, and persons with a substantial interest in a case in all case types, have meaningful access to the court system. The Judiciary is also providing language access assistance to LEP persons accessing court support services in conformity with the four-factor analysis as discussed in Section III.

Public Access. The Judiciary has Self-Help Centers and Access to Justice (ATJ) Rooms statewide, where volunteer attorneys provide limited legal information (at Centers) or limited legal advice (at ATJ Rooms) to self-represented litigants involved in a civil case. Volunteer

attorneys have access to telephone interpreters to respond in a culturally and linguistically appropriate manner to public questions from self-represented litigants with LEP needing language assistance.

F. TELEPHONE CALLS

If Judiciary staff receive a telephone call from a person with LEP or from the person’s representative, and determines that oral interpreting services are needed, staff should call the telephone interpreting service for assistance. Alternatively, to the extent possible, an appointment may be made for the LEP individual to come into the Judiciary office so that oral interpretation services may be arranged as set forth above.

G. WRITTEN TRANSLATION

As discussed in Section VI.(C) below, the Judiciary is working toward attaching a “notice” to identified court support services documents in order to provide meaningful access to individuals with LEP. When a request for written translation of a document is received, the supervisor or administrator of the particular division receiving the request may consult with the Judiciary’s Language Access Coordinator and shall decide whether or not the request should be granted using the four-factor analysis discussed in Section III.

VI. LANGUAGE ACCESS RESOURCES AVAILABLE FOR IN-COURT AND OUT-OF-COURT PROCEEDINGS

The Judiciary developed the following resources to ensure that LEP court customers have meaningful access to the courts and to support the protocols described above. These resources will enable staff to respond in a culturally and linguistically appropriate manner to the diverse communication needs of court customers who need language assistance.

A. COURT INTERPRETER CERTIFICATION PROGRAM

The Hawai‘i State Judiciary’s efforts to meet the needs of court customers with LEP, are driven by the linguistic and cultural diversity of Hawai‘i and further challenged by Hawai‘i’s relative geographic isolation, being the most remote group of islands from any continental land mass in the world. Hawai‘i cannot rely on interpreters to travel from neighboring states to interpret for a case. In addition, the Judiciary’s judicial circuits are separate islands within the state of Hawai‘i resulting in further challenges. The Judiciary recognizes that it must build self-sufficiency in its ability to provide qualified court interpreters for a multitude of languages, many of which are considered “rare.” Accordingly, the Judiciary has taken steps to systematically address court interpreter needs for over a decade.

In its ongoing effort to increase the quality of interpreting in the Hawai‘i state courts, the Judiciary, through OEAC, launched the Court Interpreter Certification Program (“Certification Program”) in 2007.²² The Hawai‘i Rules for Certification of Spoken-Language Interpreters,

²² In 2005, legislation was introduced by the Judiciary and later enacted by the Hawai‘i State Legislature establishing a revolving fund for court interpreter education, screening, training, testing, and certification, a necessary precursor to the establishment of the Court Interpreter Certification Program. The revolving fund was necessary to create a mechanism for ongoing program fiduciary self-sufficiency. In 2006, the Legislature appropriated \$158,329 in start-up funding for the Judiciary’s Court Interpreter Certification Program to orient, screen, train, and test court interpreters, which included funding for two certification staff positions. Act 120 § 7.3 (2006).

adopted by the Hawai‘i Supreme Court and effective on July 1, 2007,²³ provide the authority for the Certification Program and establish the process by which interpreters may be registered, certified, and otherwise qualified to provide interpreting services in the Hawai‘i state courts. In its continued effort to facilitate the accessibility and availability of court interpreters, the Judiciary introduced legislation in 2011 to establish an exemption for court interpreters from expired parking meter violations received while serving a court assignment. The 2011 Legislature passed the measure, and the Governor subsequently signed it into law.²⁴ In addition, in an effort to fill interpreter requests for assignments in rural courts, the Judiciary increased the mileage reimbursement rate for court interpreters on assignment from \$.35/mile to \$.55/mile effective July 1, 2013, and established compensation for commuter time for eligible interpreters who travel farther to court assignments.

The Certification Program promotes and ensures equal access to Hawai‘i’s courts for parties, witnesses and individuals with a substantial interest in a case, by providing the most qualified, reasonably available interpreters to provide meaningful access to court proceedings in a manner that is culturally and linguistically appropriate. The Certification Program structure establishes a minimum standard for court interpreters and categorizes interpreters into different designated levels of status (tier), pay, and hiring preference according to their interpreting skill level, as determined through measurable objective testing criteria, thereby facilitating the provision of language services to populations with LEP that are served by Hawai‘i State Courts. The Certification Program is similar to that of 43 other states and based on a model program recommended by the National Center for State Courts, Council on Language Access Coordinators (formerly the Consortium for State Court Interpreter Certification) (“NCSC”), of which Hawai‘i is a member.

The current requirements to interpret in the Hawai‘i State Courts are as follows:

Interpreters must:

- Be at least eighteen (18) years of age;
- Be authorized to work in the United States; and
- Complete a Certification Program Application, available at https://www.courts.state.hi.us/services/court_interpreting/registration_packet_instructions.

Because court interpretation is a highly specialized form of interpreting that cannot be effectively performed without commensurate specialized training and skills, the Certification Program further establishes the following mandatory minimum requirements for interpreters to be qualified to interpret in the state courts.

²³ Hawai‘i Rules for Certification of Spoken- Language Interpreters (fka Hawai‘i Rules for Certification of Spoken and Sign Language Interpreters) (Haw. S. Ct., adopted July 11, 2007, effective nunc pro tunc July 1, 2007), available at <https://www.courts.state.hi.us/wp-content/uploads/2019/08/csli.pdf>.

²⁴ Act 42 (effective May 4, 2011) (codified at HRS § 621-8 (b)); *see also* Gov. Msg. No. 1142 (May 4, 2011).

Interpreters must:

- 1) Attend a two-day (16 hours) Basic Orientation Workshop. Topics covered include: Hawai‘i State Court system, legal procedure and terminology, interpreting skills, and court interpreter ethics;
- 2) Pass both the NCSC Written English Proficiency Exam and the Hawai‘i Basic Ethics Exam; and
- 3) Clear a criminal background check administered by the Judiciary.

Interpreters who satisfy the mandatory minimum requirements attain Tier 1/Registered Interpreter designation status and are placed on the Hawai‘i State Judiciary’s Court Interpreter Registry (“Registry”), a statewide roster of interpreters qualified to interpret in the Hawai‘i State Courts.

Tier 1 interpreters may opt to take an Oral Exam, if one exists in their language, that tests interpreting skills and proficiency in both English and their non-English language. Interpreters who achieve qualifying scores on the Oral Exams can attain a higher tier designation and commensurate higher pay rate and hiring preference. Oral Exams do not exist in all languages, and some interpreters, particularly in Asian and Pacific Island languages, may not be able to take an Oral Exam.

Interpreter Training. The Judiciary has been offering an Arraignment & Plea (A&P) Workshop for new court interpreters. The A&P workshops were conducted on the neighbor islands for the first time in Hilo and on Maui and Kaua‘i in September 2018 in collaboration with the Hawai‘i Office of Language Access.

In 2017 the Judiciary sought to improve the quality of court interpreters in a pilot project aimed at documenting that interpreters meet a baseline standard of understandable, conversational English. 70 court interpreters statewide participated in the project by taking the Versant Oral English Screener free of charge, online or by telephone. Versant evaluates the spoken English skills of non-native English speakers and is recommended by the National Center for State Courts. Interpreters who were assessed as needing improvement, were offered free access to an online English speech training program which can improve spoken English pronunciation and reduce native accents.

Additionally, in collaboration with the Asian Pacific Institute on Gender-Based Violence and the National Language Service Corps, in August 2017, the Judiciary co-sponsored a free, intermediate level skills building training for court interpreters on O‘ahu. Led by interpreter trainer Martha Cohen from the Seattle King County Courts, 23 court interpreters participated in a full day of interactive interpreting exercises and received practical tips and individualized feedback to help them learn how to build their skills in consecutive and simultaneous interpretation and sight translation.

The COVID-19 pandemic has changed the way the Judiciary does business. In response to the public health threat posed by the pandemic, the Judiciary has postponed matters if necessary, moved proceedings to a remote format as feasible, and adjusted in-person operations to protect court users and Judiciary staff. With the growing use of webconference technology to conduct court proceedings, and the concomitant need for interpreters who are competent in remote interpreting, in 2020, OEAC conducted two trainings to familiarize court interpreters on the two specific webconference platforms used by the Hawai‘i State Courts. More than 230 interpreters

registered for the Court Interpreter Training for Web Ex and Zoom sessions conducted in November 2020. OEAC also polled all its interpreters as to their availability for Web Ex and Zoom assignments, to assist staff in obtaining interpreters for remote proceedings.

Judicial Training. In Spring 2019, OEAC presented “Practical Judicial Skills for Using Interpreters in the Courtroom” at the Spring Judicial Conference, to assist judges to effectively and efficiently use interpreters in court proceedings. The training was offered to all full-time and per diem judges.

Interpreter Recruitment. The Judiciary continues to expand its base of court interpreters through active recruiting at high schools, through the media (radio, television), at career conferences, career days, symposiums and job fairs. The Judiciary was invited to participate in the 6th Annual Pacific Youth Empowerment for Success (PacYES) event at UH Hilo on October 21, 2017. The event aimed to provide Pacific Island high school students with information and resources to promote college, career, and community readiness. Community and UH Hilo student leaders planned and coordinated the event. The Judiciary successfully reached a target audience of Pacific Islander college students and community members to pitch the Court Interpreter Program and met some potential partners who may be able to help the Judiciary reach out to Pacific Islanders who speak languages in high demand in the Hawai‘i State Courts. The Judiciary was also invited to present at the Multilingual Career Development Day sponsored by the Hawai‘i Language Roadmap Initiative Project on March 28, 2018. Bilingual high school and college students attended the event, which highlighted language skills in the workplace. OEAC staff participated in the first-ever “Virtual Multilingual Career Fair” sponsored by the Hawai‘i Language Roadmap on March 30 2021. The Judiciary also participated in the Hawai‘i Association of Language Teachers Spring Conference on April 14, 2018, and the Hawai‘i Department of Education’s Multilingual Symposia on March 2, 2019 and January 11, 2020.

As part of its recruitment efforts, OEAC staff participated in various job fairs, such as the Chaminade University job fair on October 3, 2018; Transition Summit Hiring Fairs at Joint Base Pearl Harbor Hickam and Schofield Barracks on October 16-17, 2018; the Child and Family Services Ewa job fair on August 7, 2019; and the Hiring Our Heroes job fair at Kaneohe Bay Marine Corps Air Station on November 5, 2019.

OEAC also works to build and maintain relationships with community-based organizations that promote language access and can help the Judiciary’s outreach efforts to targeted communities, such as We Are Oceania, Waipahu Safe Haven (Chuukese and Marshallese Steering Committees), Nations of Micronesia, Marshallese Education Day, Pacific Gateway Center, Helping Hands Hawaii, Overcoming Barriers to Access to Justice Committee of the Hawai‘i Access to Justice Commission, Ka Haka ‘Ula O Ke‘elikōlani School of Hawaiian Studies at University of Hawai‘i Hilo, and other organizations.

OEAC staff conduct outreach events for the public on how to become a court interpreter, participate in community events, meet with businesses and organizations, among other actions to raise awareness of the Judiciary’s Court Interpreter Certification Program and support interpreter recruitment.

Other Presentations. OEAC’s Court Interpreting Services Coordinator was the Hawai‘i panelist for the National Center for State Courts webinar, “Back to the Future: Video Remote Interpreting and Other Language Access Solutions in the Time of COVID” on June 30, 2020, available at <https://www.ncsc.org/newsroom/public-health-emergency/webinars/2020-webinars>. Over 2,000

registrants heard a panel of experts from four states discuss the challenges and successes of implementing remote interpreting and other technology solutions to provide language access in state courts.

B. COURT INTERPRETER REGISTRY

The Office on Equality and Access to the Courts (OEAC) maintains the Court Interpreter Registry, a statewide listing of interpreters qualified to interpret in the state courts. The Registry assists the Judiciary to effectively identify and give assignment preference to the most skilled court interpreters through a system that assigns a numerical tier designation in descending order (i.e., Tiers 6, 5, 4, 3, 2, and 1) to each listed interpreter, based on their interpreting skills and knowledge as determined by objective, standardized testing instruments.

The Registry is available to Judiciary staff statewide through the Judiciary’s intranet. The Registry is also made available to the public on the Judiciary’s website at https://www.courts.state.hi.us/services/court_interpreting/list_of_registered_interpreters and from the “List of Interpreters” link on the “Language Access” tab on the Judiciary’s homepage. The first page of the Registry is a chart illustrating the various tier designations used by the Certification Program to classify interpreters, including requirements for each tier and applicable pay rate. The actual list of interpreters begins on page 3. The Registry lists interpreters by language, circuit (island), and tier designation in descending order from 6 to 1 (with the highest tier, or more qualified interpreters, listed first). Within each tier, interpreters are listed in reverse alphabetical order²⁵ by last name, and are considered equally qualified. *See* Attachment D, Court Interpreter Registry. The Registry is updated regularly by OEAC to ensure that Judiciary staff have access to the most current roster and contact information for court interpreters.

C. DOCUMENT TRANSLATION

1. Vital Documents

The Judiciary has identified vital documents – forms, brochures, and other written materials routinely distributed to English-speaking individuals, that provide important information necessary to access or benefit from its programs, services, or activities. Through a process of prioritization, the Judiciary has identified critical and vital documents to be translated upon availability of funding. *See* Attachment E, Hawai‘i State Judiciary, Vital Documents Survey Reports, submitted to the Hawai‘i Office of Language Access on November 3, 2008 and July 17, 2012.

The Judiciary is working to ensure that vital documents are translated where the program regularly encounters languages other than English in serving the public, subject to the four-factor analysis and funding availability. Written notices of the right to receive competent and free oral interpretation of vital documents are being developed for translation into languages other than English for groups who have LEP that do not meet the five percent or 1,000 persons threshold, subject to the requirements of HRS Ch. 321C. Through its Courts Eliminating Language Barriers (CELB) project funded through a FY 2010 Byrne Justice Assistance Grant (JAG) grant, OEAC aimed to improve the criminal justice system by providing communication access for LEP defendants and witnesses to help them successfully navigate the courts and criminal justice system, process information, make wise decisions, and understand and comply with court orders. OEAC developed and provided the following: Language identification cards (in English + 14

²⁵ *See supra* note 19.

languages) (*See* § V.(A), *supra*); and an informational brochure, “How to Use a Court Interpreter” (in English + 14 languages) to inform defendants and witnesses of the role and use of a court interpreter in court proceedings – with the aim of making effective and efficient use of court interpreters.

In addition, through its Providing Language Access in the Courts (PLAC) project, funded by a FY2011 Byrne JAG Grant, the Judiciary focused on strengthening interpreter services by providing specialized Interpreter Skills Building training for criminal court cases to facilitate the provision of timely, competent, and free language services for LEP persons in the Hawai‘i State Courts. Criminal court forms/written information were translated into non-English languages frequently encountered in the Hawai‘i State Courts. Judges and court administrators were polled to identify specific forms/written information that provide important information necessary for criminal defendants to meaningfully participate in court proceedings and comply with court orders/judgments.

Through its Multilingual Temporary Restraining Order (MTRO) project funded by a FY2015 S.T.O.P. Violence Against Women Act (VAWA) grant obtained in 2017, the Judiciary sought to improve its ability to facilitate access to justice for immigrant and LEP victims of domestic violence by translating TRO packets and other vital documents that provide important information to access the family courts statewide. MTRO project documents were translated into the high demand languages for TRO petitioners encountered in each circuit statewide and audio recordings of the translations of general TRO information were made available online.

Following the MTRO project, the Judiciary produced a multilingual video to assist domestic violence victims to successfully file a Temporary Restraining Order in the First Circuit Family Court. Funded by a FY 2019 Justice for Families grant, the videos provide important information about the TRO process. The video is available in English, Chuukese, Ilokano, Marshallese and Tagalog, and can be shown by TRO Unit staff to victims who come to the courthouse to file for a TRO.

2. Notice of Availability of Document Translation

The Judiciary is also working to develop “notice” language to be translated into frequently encountered non-English languages to attach to identified court documents. It is anticipated that the content of the notice may include the following: “If you need this document translated, please contact the Judiciary’s Language Access Coordinator by email at oeac@courts.hawaii.gov or by telephone at 808-539-4860.”

D. NOTICE

It is the Judiciary’s goal that identified entry points and primary points of public contact have posted signage that informs LEP persons of their right to free language services.

Signage. In August 2012, the Judiciary released its version of the revised (July 2012) language identification poster developed by the Hawai‘i Office of Language Access to instruct court customers to contact the Judiciary if they have any questions or need information on interpretation services. Signage is posted statewide in various high traffic locations within the Circuit, District, Family and Rural Courts, including the Traffic Violations Bureau, Cashier’s Office, Legal Documents Branch, Adult Client Services Branch, and Customer Service Centers. It is also readily available on OEAC’s intranet page for printing in various sizes for posting and personal desk-side use. *See* Attachment B Language Identification / Notice Materials.

The Judiciary will continue an ongoing process of assessment to ensure appropriate signage is posted. In implementing this Language Access Plan (LAP), the Judiciary will take into account physical signage and special considerations so that interactions between the Judiciary and court customers with LEP can take place in a fairly private manner.

Language ID cards. As stated above in Section V.(A), multilingual language identification cards (Language ID Cards) are available in all courthouses statewide, and court users are greeted by multilingual *Welcome Banners* printed in English and 14 non-English languages. See Attachment B Language Identification / Notice Materials.

Rack cards. The Judiciary also provides rack cards at court support services and/or program centers notifying court customers with LEP that interpreters are available free of charge. As stated above in Section VI.(C)(2), the Judiciary is working toward providing a notice regarding the availability of free translation services to attach to court documents that a court customer with LEP may need translated. See Attachment B – If You Need an Interpreter Rack Card.

Other notice. The Judiciary continues to explore alternative means of providing notice to individuals with LEP, such as:

- Posting notice of availability of language access services for court customers with LEP on the Judiciary’s website in additional non-English languages, as determined by the four-factor analysis as discussed in Section III. above
- Developing an interpreter request form, available in hard copy and on the Internet that LEP persons can use to alert the Judiciary of their language needs by presenting it to Judiciary staff upon arrival at Judiciary facilities when seeking court services
- Promoting use of plain language in court informational materials and website content, for readability and ease of understanding

E. JUDICIARY INTERNET SITE

Multilingual information is available on the Judiciary internet site. From the “Language Access” tab on the Judiciary’s homepage, the following information can be accessed: the Judiciary’s Language Assistance Policy; Language Access Services; List of Interpreters; Request a Court Interpreter; Sign Language Interpreters; Use a Court Interpreter; Become a Court Interpreter; and Contact Information. In addition, on the left side of the main website page, there is access to multilingual information in 14 languages frequently encountered in the Hawai‘i State Courts. The National Center for State Court’s named the Judiciary’s website as #1 for Court Technology Solutions Awards in 2016 for its work in multiple language access solutions.

F. LANGUAGE ACCESS COMPLAINTS

During its 2013-2015 technical assistance review of the Hawai‘i State Judiciary, the U.S. Department of Justice identified the need for a complaint process for limited English proficient persons to submit a complaint about the denial of interpreter services, or issues with the language services received. Subsequently, the Judiciary developed a language access complaint procedure for court users who believe that they did not receive language access, were not provided with an interpreter by the court, or have a complaint about a court interpreter.

The Judiciary recognizes the need for a multilingual complaint form, and a clear, public, transparent complaint process for LEP persons to notify the Judiciary of concerns with the provisions of language assistance services. Thus, in its Language Access in the Courts Enhancement (LACE) project funded by a FY 2014 Byrne JAG Grant, the Judiciary translated

the language access complaint form and complaint process informational sheet into 14 languages frequently encountered in the Hawai‘i State Courts to inform LEP persons about how to file a complaint. Providing such information in LEP persons’ primary language will facilitate timely notifying the Judiciary about any problems with provisions of services, so that appropriate corrective action can be taken. This will ultimately reduce delays in court proceedings, insufficient court records, and unenforceable court orders which may result from language barriers. The translations will be posted on the language-specific webpages on the Judiciary’s website, and should also be available in hard copy at courthouses statewide.

VII. LEP/LANGUAGE ACCESS DATA COLLECTION PROJECT

After assisting a court customer with LEP, Judiciary staff shall document the encounter on the *User Log-LEP/Language Services* form, which includes a User Guide (quick guide) to assist staff in accurately recording LEP encounters. Each section/office/department is responsible for compiling data on encounters with LEP court customers from *User Logs* into a *Quarterly Report-LEP/Language Services (by language)*, which must be submitted to OEAC. OEAC compiles the information into a comprehensive *Quarterly Report-LEP/Language Services* statewide report.

The language access reporting forms, together with instructions and training materials (sample scenarios and accompanying forms showing how to log the data), are available on the Judiciary Intranet, on the Forms page and the EAC department page. See Attachments F and G, EAC Intranet page, Language Access/Data Collection Reporting Tool, *User Log & Quarterly Report Form (Excel Format)*; and Language Access/Data Collection Reporting Tool Training Materials, *Scenarios, Blank Forms & Answer Sheets*.

VIII. STAFF TRAINING

A. LANGUAGE ACCESS PLAN (LAP)

The Judiciary recognizes that the training of its staff is an important component of working with populations that have limited English proficiency (LEP). All staff should understand the need to determine language needs of individuals who have LEP in a timely manner to reduce delay, frustration, and costs. Training also ensures that staff working across departments know how to service individuals with LEP in a consistent and uniform manner.

Accordingly, in 2009, the Judiciary conducted initial training for court administrators, senior management members and staff statewide on its Language Access Plan (LAP). For the initial training, representatives from each First Circuit office were required to attend the train-the-trainer sessions in order to subsequently train their respective staff. As part of its training, OEAC developed the *Guide for Serving LEP Court Customers*, to serve as reference material for staff with the essential principles and procedures of the LAP.

The Judiciary has continued to provide refresher training statewide on its LAP for staff, judges, law clerks, and new employees. The Office on Equality and Access to the Courts (OEAC) conducted 95 two-hour mandatory language access training sessions in 2014 for Judiciary staff statewide (27 on neighbor islands, 68 in the First Circuit). As part of this training, OEAC developed a benchcard for Judiciary staff, *Language Access Services: A Guide for Staff*, which contains the protocol for providing language services discussed in Section V. See Attachment H. The benchcard replaced the *Guide for Serving LEP Court Customers* mentioned above. In addition, mandatory judicial training on language access was conducted for all judges. In 2016,

the Judiciary updated its data collection forms for staff and conducted additional workshops on how to collect data on encounters with court clients who are limited English proficient. Since the filing of the Judiciary’s Language Access Plan for Persons with Limited English Proficiency FY 2017-2018, the Judiciary has conducted training each year on language access and its provision of language assistance services for Judiciary staff, other government agencies, and numerous community organizations. In response to the rise in remote proceedings due to the COVID-19 pandemic, the Judiciary also conducted several training sessions for staff, judges, and interpreters on how to use court interpreters more effectively in remote hearings. More recently, in November 2021, and January and February 2022, staff training was specifically conducted for First Circuit District Court and Family Court Clerks and Bailiffs. Similar training for First Circuit Probation Officers is scheduled for March 2022.

Due to the size and complexity of its workforce, the Judiciary is exploring alternative modes of training including:

- *Formal Training* – Face-to-face training designed for management, supervisors, and staff who are likely to encounter court customers with LEP, covering topics such as the Judiciary’s LAP, protocols for providing language services, and how to effectively work with interpreters.
- *Distance Learning* – Training by videoconference, teleconference, and interactive television systems designed to reach staff who are unable to attend training in person due to geographical barriers, budget constraints, and travel restrictions.
- *Computer-Based Training* – Computer-based, online training covering such topics as the Judiciary’s LAP, protocols for providing language services, and how to effectively work with interpreters is tentatively scheduled for 2023.
- *Informal Training* – Informal training provided by unit supervisors or trained staff on topics such as the Judiciary’s LAP and procedures for providing language assistance services to court customers with LEP.

The Judiciary’s Language Access Coordinator will continue to work with court administrators and the respective training departments to determine effective methods of delivering language access training to Judiciary staff. This process may include identifying trainers within each circuit who are willing to conduct language access trainings and coordinating trainings for Judiciary staff and bilingual volunteers and staff.

B. BILINGUAL VOLUNTEER STAFF

The Judiciary has offered bilingual volunteer staff the opportunity to attend training conducted by the State Office of Language Access (OLA) to better understand their role as bilingual volunteer staff interpreters and ways to work more effectively in this capacity. In addition, the Judiciary is exploring the development of additional training for its bilingual volunteer staff modeled after OLA’s “The Role of Bilingual Staff” and “Serving LEP Individuals through Interpreters” workshops. The goal is to develop a curriculum designed to provide basic training in interpreter ethics and confidentiality requirements related to providing language services. The Judiciary is working with OLA to provide Judiciary staff with access to online training videos produced by OLA on the role of bilingual staff.

IX. MONITORING AND UPDATING THE PLAN

To ensure continual improvement in the area of customer service for individuals with limited English proficiency (LEP), in a manner that is culturally and linguistically appropriate, the Judiciary's Language Access Coordinator will monitor provision of language access services for persons with LEP, and update the Language Access Plan every two years. The Judiciary will also, to the extent practicable, coordinate across programs, departments, and circuits, to more efficiently meet the needs of its court customers who have LEP. The Judiciary implemented an LEP/Language Access Data Collection Project to collect data on every encounter court staff has with individuals with LEP. It is anticipated that the Data Collection Project will provide necessary information to assist the Judiciary to better determine the language needs of individuals with LEP who seek access to Judiciary programs, services, and activities.

X. DESIGNATION OF THE JUDICIARY LANGUAGE ACCESS COORDINATOR

The Program Director of Office on Equality and Access to the Courts is the designated Language Access Coordinator (LAC) for the Judiciary and is responsible for: (1) overseeing implementation and evaluation of the Language Access Plan (LAP); (2) revising the LAP, as necessary; (3) responding to inquires/comments/ complaints regarding the LAP and its implementation; and (4) training Judiciary staff on the LAP.

The LAC also works with other State departments and agencies to identify areas where coordination or collaboration would improve the efficiency with which language access services can be provided. In addition to participating in the State Language Access Coordinators meetings convened by the Hawai'i Office of Language Access, the LAC also participates in the Roundtable meetings convened by the Overcoming Barriers to Access to Justice Committee of the Access to Justice Commission (OBAJ Roundtable). The OBAJ Roundtable is comprised of invited entities working to reduce language and other barriers to access to justice and aims to facilitate collaboration and cooperation among its participants and members.

The LAC also participates in the Hawai'i Language Roadmap Initiative Project which acknowledges the realization that to compete in a global economy and to respond to the demands of its increasingly diverse population, Hawai'i must promote and support the study of foreign languages and culture. The project brings stakeholders from education, government, and business together to assess foreign language needs and create sustainable and applicable solutions designed to meet language access needs within the state.

XI. CONCLUSION

This Language Access Plan (LAP), developed in compliance with the mandates of Title VI and Hawaii Revised Statutes, Ch. 321C, memorializes the Judiciary's actions and initiatives to provide reasonable and meaningful access to individuals with limited English proficiency who seek access to Judiciary programs, services, and activities. For further information on this LAP, contact the Judiciary's Language Access Coordinator at 808-539-4860 or oeac@courts.state.hi.us.



Rodney A. Malle
Administrative Director of the Courts
Hawai'i State Judiciary

APR 22 2021

Date

ATTACHMENTS

Attachment A	Hawai'i State Judiciary, Public Contact Positions Survey Report
Attachment B	Language Identification / Notice Materials <ul style="list-style-type: none">• Language Access Policy Notice• Multilingual Notice of Availability of Language Services• Language ID Cards• If You Need An Interpreter Rack Card• Multilingual Welcome Banner
Attachment C	Bilingual Volunteer Staff Questionnaire
Attachment D	Court Interpreter Registry
Attachment E	Hawai'i State Judiciary, Vital Documents Survey Report
Attachment F	EAC Intranet page
Attachment G	LEP/Language Access Data Collection Materials <ul style="list-style-type: none">• How to Record an LEP Encounter• User Log-LEP/Language Services• Quarterly Report-LEP/Language Services (by language)
Attachment H	Language Access Services: A Guide for Staff (benchcard)