

1 **Superior Court of Alpine County**

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3 **Limited English Proficiency (LEP) Plan**

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6 **I. Legal Basis and Purpose**

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8 This document serves as the plan for the Superior Court of Alpine County to provide to persons  
9 with limited English proficiency (LEP) services that are in compliance with Title VI of the Civil  
10 Rights Act of 1964 (42 U.S.C. 2000d et seq.; 45 C.F.R. § 80.1 et seq.; and 28 C.F.R. § 42.101–  
11 42.112). The purpose of this plan is to provide a framework for the provision of timely and  
12 reasonable language assistance to LEP persons who come in contact with the Superior Court of  
13 Alpine County.

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15 This LEP plan was developed to ensure meaningful access to court services for persons with  
16 limited English proficiency. Although court interpreters are provided for persons with a hearing  
17 loss, access services for them are covered under the Americans with Disabilities Act rather than  
18 Title VI of the Civil Rights Act, and therefore will not be addressed in this plan.

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20 **II. Needs Assessment**

21 **A. Statewide**

22 The State of California provides court services to a wide range of people, including those who  
23 speak limited or no English. Service providers include the California Supreme Court, the Courts  
24 of Appeal, and the superior courts of the 58 counties.

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26 According to the Administrative Office of the Courts (AOC) Court Interpreter Data Collection  
27 System (CIDCS), which aggregates court interpreter usage data received from the California trial  
28 courts, the most frequently used languages for interpreters in California courts in 2005 were (in  
29 descending order of frequency):

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31 1. Spanish  
32 2. Vietnamese  
33 3. Korean  
34 4. Armenian  
35 5. Mandarin

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38 **B. Superior Court of Alpine County**

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40 The Superior Court of Alpine County takes the needs of LEP persons seriously and attempts to  
41 make every reasonable effort to provide meaningful access to them. According to United States  
42 Census Bureau data for 2000, in Alpine County, 94 people or 8.2 percent of the people five years  
43 of age and older over speak a language other than English. Of these, 35 people reported  
44 speaking English less than very well, with 16 speaking Spanish, six speaking an indo-European

45 language, none speaking an Asian or Pacific Island language and 13 speaking something else.  
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48 **III. Language Assistance Resources**

49 **A. Interpreters Used in the Courtroom**

50 **1. Providing Interpreters in the Courtroom**  
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52 Providing spoken-language interpreters in court proceedings are based in whole or in part on  
53 statutory and case law. These are set out in Attachment A. In the Superior Court of Alpine  
54 County, interpreters will be provided at no cost to court customers who need such assistance  
55 under the following circumstances:

- 56 • For litigants and witnesses in traffic hearing;
- 57 • For litigants and witnesses in criminal hearings;
- 58 • For litigants and witnesses in juvenile hearings;
- 59 • For litigants and witnesses in hearings involving domestic violence and elder abuse,  
60 family law and child support cases, to the extent that funding is provided; and,
- 61 • For litigants who need assistance when using family court services, to the extent that  
62 funding is provided.

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64 Responsibility for the cost of spoken-language interpreters for litigants and witnesses in other  
65 civil proceedings will be determined at the discretion of the officiating judge. Additionally,  
66 courts may incidentally use interpreters who are providing mandated interpreting services for  
67 issues such as criminal or juvenile cases for use in civil courtrooms. The Superior Court of  
68 Alpine County recognizes the significant benefits to both the public and the court by providing  
69 interpreters in civil cases and will attempt whenever possible to provide such interpreters through  
70 incidental use.  
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72 **2. Determining the Need for an Interpreter in the Courtroom**  
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74 The Superior Court of Alpine County may determine whether an LEP court customer needs an  
75 interpreter for a court hearing in various ways.  
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77 The need for a court interpreter may be identified prior to a court proceeding by the LEP person  
78 or on the LEP person's behalf by counter staff, self-help center staff, family court services, or  
79 outside justice partners.  
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81 The need for an interpreter may also be made known in the courtroom at the time of the  
82 proceeding. The judge may determine that it is appropriate to provide an interpreter for a court  
83 matter. California's Standards of Judicial Administration offer instruction to judges for  
84 determining whether an interpreter is needed. Section 2.10 provides that an "interpreter is needed

85 if, after an examination of the party or a witness, the court concludes that: (1) the party cannot  
86 understand and speak English well enough to participate fully in the proceedings and to assist  
87 counsel, or (2) the witness cannot speak English so as to be understood directly by counsel,  
88 court, and jury.” The court is directed to examine the party or witness “on the record to  
89 determine whether an interpreter is needed if: (1) a party or counsel requests such examination or  
90 (2) it appears to the court that the person may not understand or speak English well enough to  
91 participate fully in the proceedings.”

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93 To determine if an interpreter is needed, standard 2.10(c) provides that “the court should  
94 normally ask questions on the following: (1) identification (for example: name, address, birth  
95 date, age, place of birth); (2) active vocabulary in vernacular English (for example: ‘How did  
96 you come to the court today?’ ‘What kind of work do you do?’ ‘Where did you go to school?’  
97 ‘What was the highest grade you completed?’ ‘Describe what you see in the courtroom.’ ‘What  
98 have you eaten today?’ Questions should be phrased to avoid ‘yes’ or ‘no’ replies; (3) the court  
99 proceedings (for example: the nature of the charge or the type of case before the court), the  
100 purpose of the proceedings and function of the court, the rights of a party or criminal defendant,  
101 and the responsibilities of a witness.”

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103 Standard 2.10(d) calls on the court to state its conclusion on the record regarding the need for an  
104 interpreter. “The file in the case should be clearly marked and data entered electronically when  
105 appropriate by court personnel to ensure that an interpreter will be present when needed in any  
106 subsequent proceeding.”

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108 Many people who need an interpreter will not request one because they do not realize that  
109 interpreters are available or because they do not recognize the level of English proficiency or  
110 communication skills needed to understand the court proceeding. The court does not have  
111 funding to provide interpreters for non-mandated proceedings. However, the court can provide  
112 some assistance within existing funding restrictions and will endeavor to do so for non-mandated  
113 proceedings.

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115 In a case where the court is mandated to provide an interpreter, but one is not available at the  
116 time of the proceeding, even after the court has made all reasonable efforts to locate one, as  
117 outlined in this plan, the case will be postponed and continued on a date when an interpreter can  
118 be provided. The AOC will be developing a generic continuance form that will be translated into  
119 several frequently used languages and will be providing them to the trial courts for their use.

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121 When an interpreter is unavailable for a case in which the court is not mandated to provide one,  
122 the court determines and follows the best option that is appropriate for the situation, including:

- 123 • Appointing an individual to act as an interpreter for the proceeding;
- 124 • Continuing the proceeding to a day when the calendar shows the incidental availability of  
125 an interpreter for that language; or
- 126 • Continuing the proceeding and informing the party that they must provide an interpreter  
127 at their own expense.

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### **3. Court Interpreter Qualifications**

The Superior Court of Alpine County hires interpreters for courtroom hearings in compliance with the rules and policies set forth by Government Code section 68561 and California Rules of Court, rule 2.893. The AOC maintains a statewide roster of certified and registered interpreters who may work in the courts. This roster is available to court staff and the public on the Internet at [www.courtinfo.ca.gov/programs/courtinterpreters/master.htm](http://www.courtinfo.ca.gov/programs/courtinterpreters/master.htm).

When the court has made a “due diligence” effort to find a certified or registered court interpreter and none is available, the court then seeks a noncertified or nonregistered court interpreter, in accordance with the governing local labor agreement. Whenever a noncertified interpreter is used in the courtroom, to either provisionally qualify the interpreter or find cause to permit him or her to interpret the proceeding, judges must, pursuant to rule 2.893, inquire into the interpreter’s skills, professional experience, and potential conflicts of interest. A provisionally qualified interpreter is one who, upon findings prescribed in the rule, is designated by the judge as eligible to interpret in a criminal or juvenile delinquency proceeding for a period of six months.

#### **B. Language Services Outside the Courtroom**

The Superior Court of Alpine County is also responsible for taking reasonable steps to ensure that LEP individuals have meaningful access to services outside the courtroom. This is perhaps the most challenging situation facing court staff, because in most situations they are charged with assisting LEP individuals without an interpreter present. LEP individuals may come in contact with court personnel via the phone, the public counter, or other means.

To facilitate communication between LEP individuals and court staff, the Superior Court of Alpine County uses the following resources to the degree that resources are available:

- Multilingual signage is being developed by the AOC and a working group of trial courts. Once available, the court will post any applicable signage, as appropriate;
- Language Line services, are available to provide assistance in the clerk’s office and at the court’s self-help center and court mediation services. The Language Line contract services provides interpretation services via the telephone in over 170 languages; and,
- Bilingual family court services mediators for custody and visitation matters.

#### **C. Translated Forms and Documents**

The California courts understand the importance of translating forms and documents so that LEP individuals have greater access to the courts’ services. The Superior Court of Alpine County and the public have access to Judicial Council forms and instructional materials translated into

171 commonly used languages at [www.courtinfo.ca.gov/selfhelp/languages](http://www.courtinfo.ca.gov/selfhelp/languages). The court also has  
172 access to instructional materials that have been translated by other courts at  
173 [www.courtinfo.ca.gov/programs/equalaccess/trans.htm](http://www.courtinfo.ca.gov/programs/equalaccess/trans.htm).

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175 Interpreters at court hearings are expected to provide sight translations of court documents and  
176 correspondence associated with the case.

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178 **IV. Bilingual Court Staff**

179 The Superior Court of Alpine County is an equal opportunity employer and recruits and hires  
180 bilingual staff to serve its LEP constituents whenever possible. The court also looks for  
181 opportunities to include bilingual skills in any contractor that provides self-help assistance.

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183 **V. Judicial and Staff Training:**

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185 The Superior Court of Alpine County is committed to providing LEP training opportunities for  
186 all judicial officers and staff members. Training and learning opportunities currently offered by  
187 the Superior Court of Alpine County will be expanded or continued as needed.

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190 **VI. Public Notification and Evaluation of LEP Plan**

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192 **A. LEP Plan Approval and Notification**

193 The Superior Court of Alpine County's LEP plan is subject to approval by the presiding judge  
194 and court executive officer. Upon approval, a copy will be forwarded to the AOC, LEP  
195 Coordinator. Any revisions to the plan will be submitted to the presiding judge and court  
196 executive officer for approval, and then forwarded to the AOC. Copies of Superior Court of  
197 Alpine County's LEP plan will be provided to the public on request. In addition, the court will  
198 post this plan on its public Web site, and the AOC will post a link to it on the Judicial Council's  
199 public Web site at [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov).

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201 **B. Annual Evaluation of the LEP Plan**

202 The Superior Court of Alpine County will routinely assess whether changes to the LEP plan are  
203 needed. The plan may be changed or updated at any time but reviewed not less frequently than  
204 once a year.

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206 Each year court staff will review and consider the effectiveness of the court's LEP plan and  
207 update it as necessary.

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209 In reviewing the plan the following points will be considered:

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  - Any related changes in court procedures or in the LEP public's needs;

- 211 • Changes in the numbers of LEP persons requesting services;
- 212 • Changes in applicable technology that might be made available to the court;
- 213 • Review of services and translated materials provided; and,
- 214 • Consideration of feedback provided about the court's LEP services;

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**C. Trial Court LEP Plan Coordinator:**

Margaret Sackrider-White  
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**D. AOC LEP Plan Coordinator:**

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**E. LEP Plan Effective date:** [February 1, 2010]

**F. Approved by:** [Signed Copy on file at the Court]

Presiding Judge: \_\_\_\_\_ Date: \_\_\_\_\_

Executive Officer: \_\_\_\_\_ Date: \_\_\_\_\_

## Attachment A to Trial Court Limited English Proficiency Plan

### **Citations on the Use and Payment of Interpreters in Court Proceedings**

Policies for providing interpreters in court proceedings are based on the following Constitutional provisions, case law, and statutory mandates:

- Article 1, section 14 of the California Constitution provides that a “person unable to understand English who is charged with a crime has the right to an interpreter throughout the proceedings.” There is no corresponding right in civil proceedings. *Jara v. Municipal Court* (1978) 21 Cal.3d 181 held that non-English-speaking indigent civil litigants do not have a right to a court interpreter appointed at public expense. However, the court does have the inherent right to waive filing fees if justice so requires.
- *Jara* let stand an earlier opinion, *Gardiana v. Small Claims Court* (1976) 59 Cal.App.3d 412, which held that in small claims proceedings, the court has a statutory duty to appoint an interpreter free of charge if it finds the litigant unable to speak or understand English. *Jara* reasoned that because attorneys are not permitted in small claims proceedings, non-English-speaking small claims litigants without an interpreter are “effectively barred from access to the small claims proceedings.” (*Jara*, 21 Cal.3d 185.) (See also the two bulleted items below regarding interpreters in small claims matters.)
- Witnesses with limited English proficiency must also be provided with an interpreter. Under Evidence Code section 752, the court must appoint an interpreter whenever “a witness is incapable of understanding the English language or is incapable of expressing himself or herself in the English language so as to be understood directly by counsel, court, and jury. . . .” Appointment of a translator is also required whenever “the written characters in a writing offered in evidence are incapable of being deciphered or understood directly.” (Evid. Code, § 753.)
- In small claims proceedings, if the court determines that a litigant does not speak or understand English sufficiently to comprehend the proceedings or give testimony and needs assistance in doing so, the court may permit another individual (other than an attorney) to assist that party. (Code Civ. Proc., § 116.550(a).) If a competent interpreter is not available at the first hearing of the case, the small claims court shall postpone the hearing one time only to allow the party the opportunity to obtain another individual to assist that party. Any additional continuances shall be at the court’s discretion. (Code Civ. Proc., § 116.550(b)). Rule 3.61 (5) of the California Rules of Court provides that any costs for a court-appointed interpreter in a small claims action must be waived if an application to proceed in forma pauperis is granted.
- In proceedings involving domestic violence and proceedings regarding parental rights, dissolution of marriage, or legal separation involving a protective order, a party who does

not proficiently speak or understand English shall have a certified interpreter present to assist communication between the party and his or her attorney (Evid. Code, § 755(a)). The interpreter's fees shall be paid by the litigants "in such proportions as the court may direct," except that the fees shall be waived for a party who has a fee waiver (Evid. Code, § 755(b) and Gov. Code, § 68092). However, the authorizing statute (Evid. Code, § 755) provides that compliance with its requirements is mandatory only if funds are available under the Federal Violence Against Women Act (P.L. 103-322) or from sources other than the state. The Judicial Council provides special funding through its Trial Court Improvement Fund to allow courts to provide interpreters for these matters and for elder abuse cases. This funding may also be used for general family law matters in and out of the courtroom, on a priority basis and to the degree funding is available.