

Language Access & the Courts



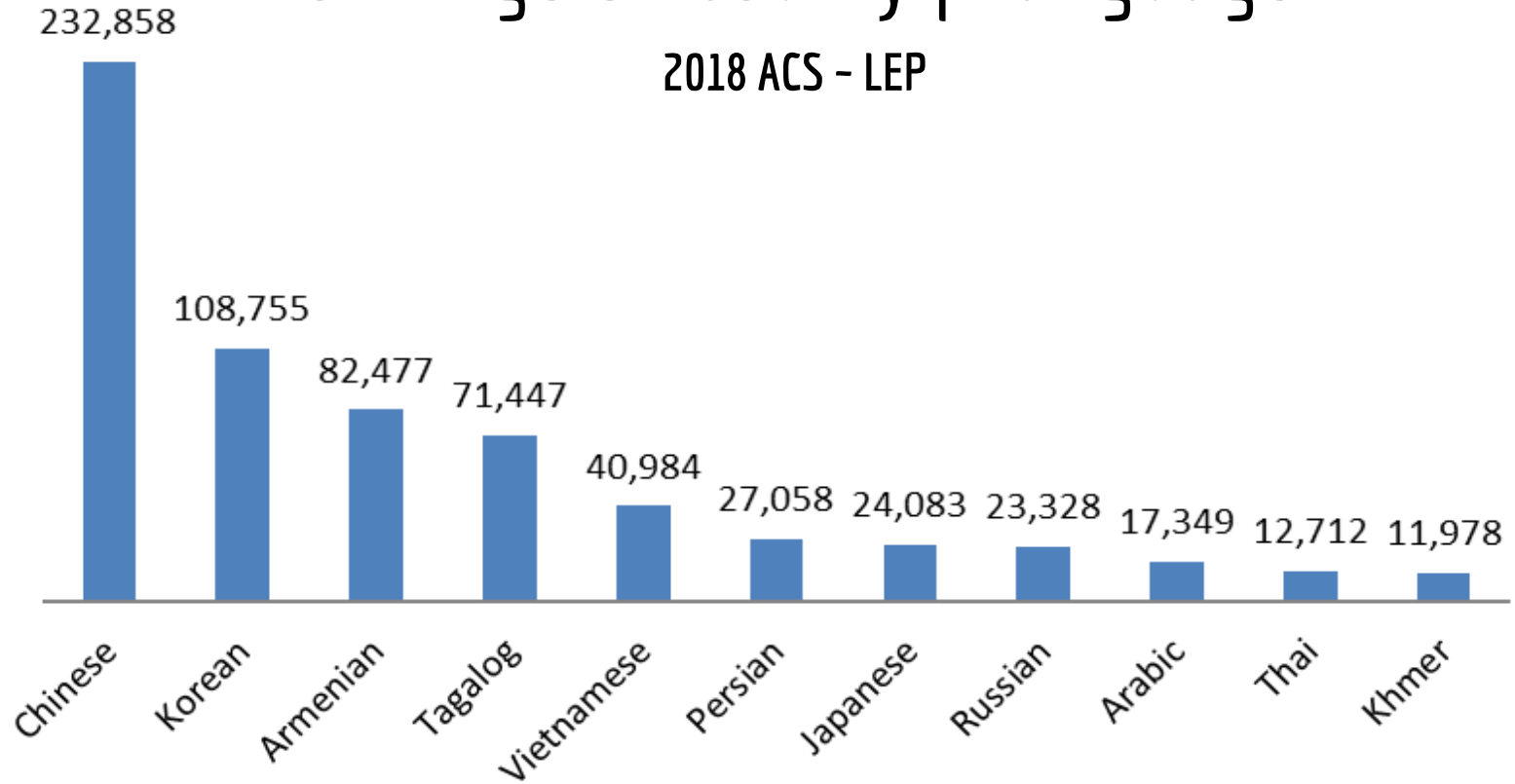
Language Rights

- ★ The right to be free from discrimination based on language (national origin)
- ★ The right to have meaningful access to public services and civic participation (often via interpreting + translation)
- ★ The right to maintain non-dominant languages and pass them on to future generations
- ★ The right for everyone's languages to be valued and respected



Los Angeles County | Languages

2018 ACS - LEP



* Spanish 1,455,062 not included above

Title VI, Civil Rights Act of 1964

§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

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Other Federal Mandates

- ★ Omnibus Crime Control and Safe Streets Act of 1968
- ★ Section 504 of the 1973 Rehabilitation Act
- ★ Americans with Disabilities Act (ADA)
- ★ Other federal statutes, such as the Affordable Care Act & Fair Housing Act have anti-discrimination clauses
- ★ **Executive Order 13166** (2000) – “Improving Access to Services for Persons with Limited English Proficiency” (covers federally conducted agencies – DOJ, DHS, HHS, SSA, etc.) & must provide guidance – www.lep.gov)



State Laws, Standards & Guidance

★ California

- Court-Related:
 - Strategic Plan for Language Access in CA Courts (Judicial Council)
 - Evid Code 756
 - Gov't Code 68092.1
- **Gov't Code 11135** (similar but more expansive than Title VI)
- Dymally-Alatorre Bilingual Services Act

★ ABA – Language Access Standards for Courts & Civil Legal Aid; Model Rules

★ LSC – Legal Services Corporation Program Letter 04-2 | Services to Client Eligible Individuals with Limited English Proficiency | <https://www.lsc.gov/sites/default/files/Grants/pdfs/Progltr04-2.pdf>

Administrative Hearings

- **Social Security** | HALLEX I-2-6-10: “ALJ will ensure that a qualified interpreter is present throughout the hearing”
- **CA Department of Social Services** (Medi-Cal, CalWORKs, CalFresh, etc.) CDSS Manual of Policies & Procedures 22-049.6: “an interpreter *shall* be provided”
- **CA Employment Development Department** | 22 C.C.R. § 5063(b): the agency shall provide an interpreter at the expense of the agency
- **Language Assistance in State Adjudicative Proceedings** | Cal. Gov’t Code § 11435.15(a)(12): requires provision of a qualified interpreter

Language Oppression & Trauma



Voiceless: Domestic Violence Victims and the Failure to Translate

<https://voicesofny.org/2016/03/voiceless-domestic-violence-victims-and-the-failure-to-translate/>

Study Finds Gaps in Aid for Non-English Speakers in State Civil Courts

<https://www.nytimes.com/2009/07/04/us/04interpret.html>

How deaf women are vulnerable to domestic abuse: the tragic story of Safiya

<https://www.newstatesman.com/society/2013/10/how-deaf-women-are-vulnerable-domestic-abuse-tragic-story-safiya>

Non-English speakers struggle to file coronavirus unemployment claims

<https://calmatters.org/california-divide/2020/04/non-english-speakers-struggle-unemployment-applications/>

“Se vuelven invisibles”: no hay suficientes intérpretes de lenguas indígenas en las cortes de EE. UU

<https://www.nytimes.com/es/2019/03/20/interpretes-migrantes-indigenas/>

CORONAVIRUS

Hospitals Have Left Many COVID-19 Patients Who Don't Speak English Alone, Confused and Without Proper Care

One medical worker told us: “It takes 10 minutes of sitting on the phone to get an interpreter, and that’s valuable time when you’re inundated. So this utilitarian calculus kicks in. And the patients that are most mainstream get the best care.”

Language Barrier Continues to Thwart Victims of Crimes

<https://www.nytimes.com/2014/05/12/nyregion/language-barrier-continues-to-thwart-victims-of-crimes.html>

Historical Background: Interpreters in CA Courts

- Courts claimed no right to an interpreter in civil cases per *Jara v. Municipal Ct. (1978)*
- Spanish-speaking interpreters *sometimes* provided as a courtesy, as well as for other languages, but great inconsistency
 - “inherent powers” to provide interpreters if “justice so requires” (*Gardiana v. Small Claims Ct (1976)*)
- Evidence Code 755 (now repealed)
- Around 2008, budget cuts resulted in decreased provision of interpreters
- As of 2009, at least 24 states and DC had systems in place to provide interpreters to litigants and witnesses in civil proceedings.

Access to Justice?

“7 million Californians cannot access the courts without significant language assistance, cannot understand pleadings, forms or other legal documents, and cannot participate meaningfully in court proceedings without a qualified interpreter.”

Language Barriers to Justice in California; California Commission on Access to Justice; September 2005.

Single Mother | Seeking Child Custody & Support

Ms. K – Korean-speaking litigant

- Seeking child custody and support orders against absent father
- Raised her then 7 year-old son alone since birth
- Child's father refused to pay child support and cooperate in executing necessary documents for him
- No other process to enforce her fundamental rights to raise and provide for her child

Single Mother | Seeking Child Custody & Support

- Request for fee waiver for court-appointed interpreter denied
 - *“~~Free~~ Korean interpreters are not provided for this type of hearing.”*

Your name: [REDACTED] <u>Korean</u>	Case Number: [REDACTED]
b. <input checked="" type="checkbox"/> The court denies your request, as follows: <i>Free interpreters are not provided for this type of hearing</i>	
Warning! If you miss the deadline below, the court cannot process your request for hearing or the court papers you filed with your original request. If the papers were a notice of appeal, the appeal may be dismissed.	
(1) <input type="checkbox"/> The court denies your request because it is incomplete. You have 10 days after the clerk gives notice of this order (see date below) to:	

- Ms. K told to bring a friend

Single Mother | Seeking Child Custody & Support

- LAFLA paid for court certified interpreter & provided representation
- Ms. K was awarded sole legal custody & increased child support orders
- Writ on fee waiver/interpreter issue filed with the Court of Appeal denied (2 - 1) based on *Jara* precedent

US DOJ Administrative Complaint Filed 2010

- Federal investigation launched 2011
 - May 2013 DOJ Letter (observations/recommendations)
 - 2014 series of public hearings & comments
 - Legislation passed (Evid Code 756; Gov't Code 68092.1)
 - **2015 Language Access Plan adopted**
 - 2015 - 2019 Implementation Task Force
 - Sept 2016: DOJ Resolution with LA Superior Court
 - Statewide investigation remains pending
- Continue to coordinate & monitor statewide, nationally

Strategic Plan for Language Access in CA Courts (2015)

- **Free interpreters in all proceedings** by 2017, full implementation by 2020
 - Early identification of language needs, data collection
 - Court-ordered, court-operated programs, services, events, all points of contact
 - Use of Technology (as appropriate)
 - Translation of forms and signage
 - Increasing interpreter pools
 - Training to JOs, administrators, & staff
 - Community outreach
 - Monitoring and complaint processes
 - Legislation, Funding, Systems to Implement & Manage

Los Angeles Superior Court

Family Law

Family Law cases can involve a number of issues such as: Child Custody, Child Support, Divorce, Domestic Violence, Legal Separation, Nullity (Annulment), Parentage (Paternity) and Spousal or Domestic Partner Support.

ONLINE SERVICES

NEW
Request for Order Dates

Case Calendar

Case Document Images

Case Summary

Our Children First Program

NEW VIDEO
From Conflict to Agreement

Divorce Judgment Document

Family Law On-Line Dispute
Resolution

REQUEST AN INTERPRETER FOR YOUR FAMILY LAW CASE

为您的家庭法的案件申请一名传译员 HO VỤ
KIẾN VỀ LUẬT GIA ĐÌNH

- English
- 한국어
- Հայերեն
- español
- 中文
- Tiếng Việt

A MESSAGE FROM THE FAMILY LAW DIVISION'S SUPERVISING JUDGE

歡迎信 ào mùng

- English
- 한국어
- Հայերեն
- español
- 中文
- Tiếng Việt

NEWS & NOTICES

NEWS RELEASES

**NEW ONLINE TOOL TO HELP PARENTS
RESOLVE CUSTODY DISPUTES WITHOUT
COMING TO COURT**

The Clerk's Offices at the Superior Court
of Los Angeles County will be Closed to
the Public; Services to be Transitioned to
Telephonic and Remote Solutions

NOTICES TO ATTORNEYS

**WHITTIER COURTHOUSE FAMILY LAW
DIVISION ANNOUNCES COURTROOM
CHANGES**

**FAMILY LAW RESTRAINING ORDER FILING
VIA RESOURCE ACCOUNT EMAIL
ADDRESSES**

Los Angeles Superior Court | Language Services

- LASC LEP Plan: <http://www.lacourt.org/generalinfo/publicnotice/pdf/lep.pdf>
- Courtroom proceedings:
 - Request interpreter for languages other than Spanish on portal <http://www.lacourt.org/irud/UI/index.aspx> (& also call the clerk to confirm)
- Sight Translation of Court Orders
- Some translated forms, multilingual videos and materials from CA Jud. Council: <https://www.courts.ca.gov/lap-toolkit-courts.htm>
- LA Family Law Case Cover Sheet – interpreter request/language information

Los Angeles Superior Court | Language Services

- Telephonic interpreting at counters & windows
- Language services provided for court-ordered and court-operated services, activities, programs (such as mediation, family law facilitator, etc.)
- If not available (ex-*Our Children First*) can file form:
 - Service Not Available in My Language: Request to Change Court Order
<https://www.courts.ca.gov/documents/la400.pdf>
 - See *In re J.P.*, 14 Cal. App. 5th 616 (2017)
- Complaint Process (form in English, Spanish, Armenian, Chinese, Vietnamese, & Korean) http://www.lacourt.org/generalinfo/courtinterpreter/GI_IN006.aspx

California Courts | VRI

Video Remote Interpreting (VRI)

- <https://www.courts.ca.gov/VRI.htm> - on this page, see Recommended Guidelines for Video Remote Interpreting (VRI) for Spoken Language-Interpreted Events, March 15, 2019, CALIFORNIA JUDICIAL BRANCH, <https://www.courts.ca.gov/documents/vri-guidelines.pdf>
- Recommended Guidelines for Video Remote Interpreting (VRI) for ASL-Interpreted Events, Judicial Council, 2012: <https://www.courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf>

COVID-19 | Access Barriers

- ❖ Many community members prefer in-person contact
- ❖ Unstable or no internet connection; limits on phone data & minutes
- ❖ Lack of smart phones, home computers & printers
- ❖ Unfamiliarity with programs for electronic forms & signatures, as well as using email & texting for reliable communication
- ❖ Many critical benefits available via online portals using email & texting
- ❖ Lack of quality plain language translated materials & interpreters
- ❖ Fear based on immigration status and public charge implications
- ❖ Increased risk in cases of domestic violence

Los Angeles Superior Court | COVID-19

- Probate investigations and mediations are all completely remote
- Continue to use portal to request interpreters
- Assume that all interpreters are appearing in-person for courtroom hearings
- Safety Protocols
 - Everyone must stand 6 feet apart.
 - Equipment for every interpreter – transponder and headsets with multi-party capacity.
 - Everyone wears masks.
 - There is hand sanitizer everywhere and social distancing in the hallways.
 - Clerk's offices are appointment only.
- Language services are provided for all court services (FLF, self-help, clerk, etc.)

Los Angeles Superior Court | Remote Hearings

- Currently WebEx and Court Call are options
- LACourtConnect begins August 17, 2020 for Family Law (customized version of WebEx)
 - Currently no capacity for private “rooms”
 - In criminal, a separate WebEx channel is set-up for side conversations.
 - User guide mentions private conversations can be accommodated?
 - Should have plan with client to communicate privately, with separate interpreter, if needed
- Interpreters should be using consecutive mode (not simultaneous)
 - Attorneys or litigants may need to request this specifically
- Court is working on Remote Simultaneous Interpreting (RSI) for the future
- Sight translation of orders should be requested, if needed

LACourtConnect User Guide | Interpreters

Time considerations in scheduling


Litigation type	LACourtConnect availability is being rolled out to the various litigation departments over the course of summer 2020. Before attempting to schedule a case, check whether it's possible yet by reviewing the table in the June 4, 2020, Notice To Attorneys .
Scheduling period and scheduling cutoff time	You can schedule a remote appearance once the hearing appears in LACourtConnect, which will be 90 days ahead at the earliest. Your last opportunity to schedule a remote appearance is 2 hours before the hearing begins. This is the cutoff time.
Leave enough time for the scheduling procedure	Leave yourself enough time to sign in at LACourtConnect, navigate to the Schedule/Cancel page, and take all the steps listed in this procedure. The scheduling cutoff of 2 hours in advance of the calendar session / hearing time is precise. If you don't schedule before the cutoff time , you'll need to go to the courthouse or miss the hearing. See " Appearance fees ," page 10.
Interpreters	Spanish-language interpreters are on site and available upon request for interpretation of open (non-private) courtroom proceedings. For other languages, request the interpreter ahead of the hearing date. Submit the request at the Interpreter Request Portal , located on the court website's Online Services tab.

LACourtConnect User Guide | Private Conversations

LACCWhatyouneedUG.pdf 66 / 81

Private

To allow a set of participants to speak privately, the conference host can assign them to a virtual private room. When that happens, you'll see only the participants who are in the private room with you.



Notes:

1. See "[Consult with each other about how to communicate](#)," page 79, for an important limitation on private conversations.
2. When you're ready to return to the main hearing, raise your hand (that is, press the Alert Operator icon [video] or press *3 on your telephone keypad [audio-only]).

Court-provided interpreters cannot interpret private conversations. See "[Interpreters](#)," page 30.

Los Angeles Superior Court | Outreach

- COVID-19 Related Updates & Materials (limited operations, re-opening, safety protocols, remote options, etc.) – only what is on the website & relying largely on Google Translate
- Call clerk for information, and everything will be explained in-language through telephonic interpreting service, as needed.

What Can We Do?

- Collaborate to create plain language materials (written & video) on important information and remote options. Coordinate different languages & translations.
- Encourage clients to call clerk and use other court services. Monitor whether language services are provided and whether information is relayed.
- Set up remote “studios”/“hearing rooms” for clients & pro per litigants.
- Speak up on the record during hearings, if there are language issues.
- Have a plan to communicate with your client separately, if possible, during remote hearings.
- Document issues, coordinate/discuss, & reach out to court.
- Other?



COVID-19 Related Resources



Remote Interpreting Resources

- Remote Hearings and Access to Justice During COVID-19 and Beyond, CA Commission on Access to Justice, May 18, 2020, <https://calatj.egnyte.com/dl/NgkEJzeDG7/> (some discussion on interpreters and non-English speaking litigants, mostly on pages 6 and 10)
- National Center for State Courts, Recommendation for In-Person Court Interpretation, A Pandemic Resource from NCSC, Language Access Services Section, June 2020: https://www.ncsc.org/___data/assets/pdf_file/0023/41387/VRI-Solutions.pdf - Relatively new resource on VRI, including cites to many other resources
- National Center for State Courts, Video Remote Interpretation Solutions and Resources for Courts, A Pandemic Resource from NCSC, Language Access Services Section, June 2020, https://www.ncsc.org/___data/assets/pdf_file/0030/38478/Recommendations-In-Person-Court-Interpretation.pdf
- National Center for State Courts, “Tiny Chat” #10 provides a brief video overview of language access concerns for courts, including remote interpreting, translation, and interpreter safety <https://www.ncsc.org/newsroom/public-health-emergency/tiny-chats>

Remote Interpreting Resources

- *From Oregon:* COVID interpreting toolkit
https://www.ncsc.org/___data/assets/pdf_file/0024/20859/oregon-covid-interpreting-toolkit.pdf
- *From Washington State:* Remote Interpreting Best Practices during the COVID-19 Emergency, WASH. COURTS,
https://www.courts.wa.gov/programs_orgs/pos_interpret/content/pdf/Remote%20Interpreting%20Best%20Practices.pdf
- *From Minnesota:* Courts procured remote interpreting equipment for all courthouses and require in person interpreters to sanitize equipment before and after use. <http://mncourts.gov/Help-Topics/Court-Interpreter-Program/MJBCourtInterpreterCommList/InterpreterCommDetail.aspx?id=15>
- Examples of translated documents from various states:
https://www.ncsc.org/___data/assets/pdf_file/0021/20847/covid-19-translated-resources-directory.pdf

General Multilingual Resources

The **COVID-19 Multilingual Resource Hub** was initiated by the UCLA Asian American Studies Center and the Fielding School of Public Health. This hub gathers and shares in-language/translated resources on COVID-19 for multilingual communities. The resources listed are provided for reference to assist members of the community at large, including but not limited to Asian American and Pacific Islander communities. Please refer to local governments and public health agencies for specific guidelines. <https://translatecovid.org>

Harvard Medical School's **Covid-19 Health Literacy Project** provides fact sheets and other materials reviewed and vetted by physicians and medical school faculty members at the Harvard hospitals. Materials, currently in 35 languages, are free and can be downloaded and distributed without copyright restrictions. <https://covid19healthliteracyproject.com/#languages>

Asian & Pacific Islander American Health Forum has created a community library of **Asian American, Native Hawaiian, and Pacific Islander In-Language Covid-19 Resources**. The resource links have been provided by various AA and NHPI community members, leaders and national and community-based organizations. <http://bit.ly/AANHPI-COVID19-Resources>

