



U.S. Department of Justice

Civil Rights Division

Coordination and Review Section - NYA
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

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The Honorable Christopher J. Dietzen
Civil Rules Committee Chair
The Minnesota Court of Appeals
25 Rev. Dr. Martin Luther King Jr. Blvd.
Chambers 233
St. Paul, MN 55155

Dear Judge Dietzen:

We wish to inform you about U.S. Department of Justice guidance that may impact your procedures and policies regarding the provision of court interpreter services to persons with limited English proficiency (LEP).

Like many other state courts, Minnesota courts receive federal financial assistance, including from the Department of Justice (DOJ). As you may know, recipients of such federal financial assistance must comply with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000, et seq., which prohibits discrimination on the basis of race, color, and national origin in programs that receive federal financial assistance. Under Executive Order 13166, reprinted at 65 FR 50121 (August 16, 2000), each federal agency that extends federal financial assistance is required to issue guidance explaining the obligations of their recipients to ensure meaningful access by LEP persons to their federally assisted programs and activities. On June 18, 2002, DOJ issued guidance to its recipients regarding the requirement of taking reasonable steps to provide meaningful access to LEP individuals. (67 FR 41455). The DOJ guidance outlines four factors that should be considered to determine when language assistance might be required to ensure such meaningful access, and identifies cost-effective measures to address those language needs. Those factors are:

The number or proportion of LEP persons in the eligible service population;

The frequency with which LEP individuals come into contact with the program;

The importance of the program or activity to the LEP person (including the consequences of lack of language services or inadequate interpretation/translation); and

The resources available to the recipient and the costs.

In addition, the guidance discusses the value and possible format of written language assistance plans, options for identifying language services and ensuring competency of interpretation and translation services, together with DOJ's insights on when translations of certain vital documents should be considered. The guidance also includes an Appendix that contains examples of how courts can provide appropriate services to LEP individuals.

As referenced below, the guidance further provides information regarding court use of interpreters for LEP individuals:

Application of the four-factor analysis requires recipient courts to ensure that LEP parties and witnesses receive competent language services, consistent with the four-factor analysis. At a minimum, every effort should be taken to ensure competent interpretation for LEP individuals during all hearings, trials, and motions during which the LEP individual must and/or may be present. When a recipient court appoints an attorney to represent an LEP defendant, the court should ensure that either the attorney is proficient in the LEP person's language or that a competent interpreter is provided during consultations between the attorney and the LEP person... (67 FR 41455, 41471)

In addition, DOJ's guidance addresses the allocation of the costs of providing interpreter services to LEP persons:

... [W]hen oral language services are necessary, recipients should generally offer competent interpreter services free of cost to the LEP person. For DOJ recipient programs and activities, this is particularly true in a courtroom, administrative hearing, pre- and post-trial proceedings, situations in which health, safety, or access to important benefits and services are at stake, or when credibility and accuracy are important to protect an individual's rights and access to important services. (67 FR 41455, 41462)

For your convenience, we have enclosed DOJ's "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" for you to review and share with your colleagues. The Appendix to this guidance includes a section, at page 41471, on the application of Title VI to federally assisted courts. We have also enclosed a "Tips and Tools" document, which includes a chapter on the provision of language assistance in courts. These and other helpful materials are also available on our LEP website, www.lep.gov. Finally, we have included a copy of a video regarding language access that might be particularly useful in focusing on language access outside the courtroom.

I hope that this information is helpful to you as you consider amending your rules to ensure that LEP persons receive interpreters paid for by the court. If you have any questions, please feel to call me at (202) 307-2222.

Sincerely,

Merrily A. Friedlander

Merrily A. Friedlander
Chief
Coordination and Review Section
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Enclosures

cc: Justice Sam Hanson
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