

## Translation Protocol

### Judicial Council of California

The Judicial Council of California is the policymaking body of the California judicial branch. It is responsible for the provision of statewide judicial branch information in a manner that ensures meaningful access to the information for all Californians. The Council is responsible for the development and online publication of Judicial Council forms, the [California Courts](#) website and all of its content, statewide informational publications, and other written and audiovisual resources of statewide applicability.

The Council is committed to providing quality language access services to limited English proficient (LEP) individuals in California, including the translation of statewide materials into the languages most commonly spoken in the state. This Translation Protocol sets forth comprehensive policies and procedures regarding the identification of resources for translation, languages into which designated information will be translated, quality standards for translations, translation processes, and the availability and dissemination of translated materials.

This Translation Protocol addresses the following:

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#### **Policy Guidelines and Directives**

The [Strategic Plan for Language Access in the California Courts](#) (LAP) requires, under Recommendation #36, that the Judicial Council “develop and formalize a translation protocol for Judicial Council translations of forms, written materials and audiovisual

tools.”<sup>1</sup> The same recommendation discusses the inclusion in the protocol of required qualifications for translators, the prioritization and coordination of the materials to be translated, and oversight of any translation efforts.

Once the protocol is established, the LAP encourages individual courts to establish similar procedures for the development and translation of local forms, as well as written and audiovisual materials (including web-based information). Other recommendations in the LAP address the posting of Judicial Council translated materials for the public, as well as the creation of samples and templates of informational materials to share with local courts for their adaptation to meet local needs and resources.

In accordance with the Language Access Plan as well as existing federal guidelines and best practices, this Translation Protocol is predicated on the following policy determinations:

1. The Judicial Council will establish a standing Translation Advisory Committee in charge of administering this Translation Protocol and all translation processes and quality-assurance mechanisms established herein. This committee will be charged with implementing a standardized translation process for all Judicial Council translations, including providing oversight of translation requests from local courts, Judicial Council departments, and the public. The Translation Advisory Committee will also be in charge of the continued monitoring, maintenance, and updating of existing translations.
2. Every translation service provider contracting with the Judicial Council must meet minimum qualification requirements as established in the Translation Protocol.
3. Statewide standardization of forms, informational and educational materials, and other tools to increase access is central to the cost-efficient deployment of translation resources. Creating statewide translations that can be adapted by local courts with no or minimal cost will reduce costs at the local level while ensuring that translation initiatives are successful in providing access to court users throughout California.

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<sup>1</sup> While not written documents, audio or video information, resources, and instructions are based on written scripts, which themselves must be translated. As encouraged in the LAP and this Translation Protocol, alternative ways of delivering educational information to the public, especially to low literacy populations and speakers of languages that do not have a written component, are key for successful language access strategies. Therefore, for purposes of this Translation Protocol, the term “documents” and “written materials” includes written content that may be delivered through audiovisual means, not just in printed or text form. It is also intended to include signage at the various Judicial Council locations.

4. The prioritization of translations must be based on a number of factors as delineated in the Translation Protocol, including need, frequency of use, and usability of the document by its intended user. Plain language documents addressing high-volume case types and processes will be prioritized.
5. Steps taken in the prioritization process will identify “vital documents” as defined under federal and LAP guidelines and should address the most effective manner (from the LEP user’s perspective) of delivering the information in other languages. While full translation of a vital document may often be appropriate, the translation assessment process will include usability and other factors to determine if other strategies for delivering the information to LEP users are more appropriate.
6. While the LAP recommends that translation efforts target up to 5 languages other than English,<sup>2</sup> Judicial Council translations of materials with statewide applicability should target as many languages as feasible, with at minimum enough languages to address the top 5 languages in every jurisdiction in the state. The determination of the number of languages into which a particular document will be translated must include an analysis of factors such as criticality of the document, frequency of use (including use by particular LEP populations), statewide applicability of the information, and others as laid out in the Translation Protocol.
7. Standardized multilingual glossaries are critical to ensuring consistent and high-quality translations. Glossaries should be available not only in all languages for which translations are provided, but also for those languages for which translation resources do not yet permit full document translation. The Translation Advisory Committee will establish mechanisms for obtaining input on glossary terms from language experts such as translators, court interpreters and other experienced linguists.
8. Automatic machine translation programs should not be used as the sole mechanism for translating Judicial Council information and materials. When their use is determined to provide adequate language access where none would otherwise be available, clear disclaimer language must be provided to users to alert them about the lack of quality control with machine translation. These disclaimer messages must be in the user’s primary language, translated by qualified translation providers.

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<sup>2</sup> See definition of “Language threshold,” at LAP, p. 27.

### Identification of Documents for Translation

The Judicial Council has a significant volume of written information and resources it provides to court users and legal professionals, primarily via the [California Courts](#)<sup>3</sup> website. The information provided to the public varies significantly, not only with regard to the intended audience for the documents (such as lawyers, litigants, jurors, court staff, judicial officers, etc.), but also subject matter, scope, and intent of the information provided (e.g., educational, historical, instructional, etc.).

Because the goal of this Translation Protocol is to establish a process for ensuring that LEP court users have meaningful access to the California judicial branch, the protocol focuses on those vital documents<sup>4</sup> regularly encountered by LEP persons accessing Judicial Council information. In particular, this protocol primarily addresses:<sup>5</sup>

- [Judicial Council forms](#);
- The [California Courts Online Self-Help Center](#) and all its informational, instructional and educational written and audiovisual content; and
- Judicial Council educational or outreach communications intended at informing the public of their legal rights and obligations, language access services, and language access complaints.

The Translation Advisory Committee will, at all times, have the responsibility of ensuring that the list of possible written resources to translate is updated regularly to include any additional vital documents under the purview of the Judicial Council that should be considered for translation.

### *Determination of Vital Documents – Factors to Consider*

There are several factors that should be taken into consideration when determining if a particular document or other tool is vital for the purposes of translation:

- The criticality of a document to a particular process (e.g., a summons, which is used when initiating a case and to inform the parties of the commencement of the action and their rights and responsibilities);

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<sup>3</sup> At <http://www.courts.ca.gov/>.

<sup>4</sup> See Appendix A for DOJ and other guidance regarding what constitutes a “vital” document.

<sup>5</sup> Because the Judicial Council itself is not involved in individual cases filed with the courts of the state, this protocol does not address translation issues related to individual case-specific documents.

- The criticality of the information provided to an LEP court user’s access to the court system (e.g., information about availability of self-help services, legal relief, court locations, language services available, etc.);
- The criticality of a document from an informational or educational perspective (e.g., instructions to complete a critical form; instructions for complying with a court order);
- The overall frequency of use of a document by all litigants, either because the document is common to all or many case types (e.g., fee waiver forms, which are common to all civil cases and used by a significant number of litigants) or because it is a required document for all filings in a particularly common case type (e.g., petition for divorce/legal separation/nullity, which is a required first step in all divorce filings).
- The frequency of use by self-represented litigants given that, without a lawyer, LEP self-represented litigants face additional obstacles to obtaining access to the court system;
- The frequency of use by LEP litigants in particular, such as in cases that regularly require interpreters (e.g., Special Immigrant Juvenile Status petitions);
- The practicality of translating a form or document that may be, in its original English format, not accessible from a readability perspective or would, when translated, be inaccessible from the perspective of a particular LEP group;
- The intent and effect of the document. Possible questions to consider include:
  - Does the document help court users address safety concerns, such as protection from abuse, harm to a child, or protection for victims or vulnerable adults?
  - Does that document include information regarding possible loss of liberty (incarceration)?
  - Does the document address matters involving children (e.g., paternity, custody and parenting time; removal from home)?
  - Does the document address possible loss of real or personal property (eviction) or loss of a license or other benefit?
- The consistency or longevity of the document—will the document remain consistent for a considerable amount of time? If not, can translation of updates be done in ways that minimize expense?

Given limited resources and the significant expense of translation efforts, it is important to prioritize the translations to be undertaken, in order to ensure that those documents that are most in demand and will be most useful to the LEP population are addressed first. Before significant resources are invested in translation work, the Translation

Advisory Committee should develop a priority ranking of documents for translation (possibly through a translation rubric or other tool), based on the factors discussed.

In addition to utilizing the factors above to assess if a document is “vital” for purposes of translation, DOJ guidance specifically cites the following as vital documents:

- Educational or outreach communications intended to inform the public of their legal rights and obligations,
- Information regarding language access services,
- Language access complaints,
- Written notices of rights and responsibilities,
- Letters that require the LEP person to respond, and
- Information delivered on court websites.

To the extent Judicial Council forms include the type of information and notices addressed in this specific DOJ guidance, they may be considered to be vital documents for purposes of translation. An effective strategy already utilized by the Judicial Council on a number of its forms is to target particularly critical documents that contain important warnings to parties regarding their rights and obligations (e.g., a summons), and translate them in a bilingual format (English and the other language side by side, or one above the other). In the example of the summons, this bilingual format ensures that upon service of the summons, LEP users are immediately informed that the action filed can affect their legal rights and obligations. Existing examples of these strategies are the *Summons – Family Law* ([Form FL-110](#)) and *Summons* ([Form SUM-100](#)).

In certain instances, a document may contain vital information but not be considered vital in its totality, or it may simply be too large to translate entirely. In those situations, it may be more cost-efficient and effective to only translate the critical information, as contemplated by DOJ Guidance. It may also prove more effective to produce shorter texts with the critical information and have those translated.<sup>6</sup> Other strategies to address the provision of critical notices in additional languages or to warn litigants of the importance of a document, as well as the inclusion of notices and locations of available translations, should be explored to expand the accessibility of vital materials in as many languages as feasible.

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<sup>6</sup> For example, the California LAP, which though highly relevant to LEP court users, is over 100 pages. In this situation, the Judicial Council translated only the Executive Summary into the top 10 languages spoken in the state. See Appendix A for a more in-depth discussion of DOJ Guidance in this respect.

Once the initial identification and assessment of documents for translation are completed, the Translation Advisory Committee will create a plan to phase in additional documents and languages over time, especially as new materials are developed. Any additional documents targeted for translation should undergo the evaluation process regarding criticality and appropriateness of translation as set forth in this protocol.

### *Tools for Reaching Low Literacy Populations or Speakers of Oral Languages*

As acknowledged in the Language Access Plan and elsewhere in this protocol, the development of translated materials is not limited to content delivered in printed or written form. In efforts to reach all Californians, including low literacy English speakers, low literacy LEP persons, and speakers of languages with no written component, it is critical that alternative methods of delivering information be instituted. Short, simple, and user-friendly video and audio recordings must be included in all translation efforts as the Judicial Council, in accordance with LAP Recommendation #18, continues its efforts to create standardized videos for court users.

Some strategies utilized by the Judicial Council to provide multilingual information in non-written form range from the simple audio recording of the reading of critical Judicial Council information forms<sup>7</sup> to more in-depth videos on the mediation process in various case types.<sup>8</sup> Local courts have developed audiovisual PowerPoint presentations to assist litigants with completing Judicial Council forms, as well as extensive tutorials and orientation videos.<sup>9</sup> To the extent feasible, the Judicial Council should continue to employ these methods and coordinate with courts already working on these tools, to provide standardized information for statewide use and easily adaptable by all courts. Whenever these tools are developed in plain English, they should be designated for translation and undergo the translation process as delineated in this protocol. Additionally, for videos and other audiovisual information, translation initiatives should incorporate sign language interpreters on the screen to interpret the narration to deaf

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<sup>7</sup> See available recordings of domestic violence information forms at <http://www.courts.ca.gov/1271.htm#acc15131> and Spanish at <http://www.courts.ca.gov/1271.htm#acc15131?rdeLocaleAttr=es>.

<sup>8</sup> AT <http://www.courts.ca.gov/20614.htm>.

<sup>9</sup> Contra Costa Superior Court's Virtual Self-Help Center has these tools and more. See for e.g., <http://basic.cc-courthelp.org/index.cfm?fuseaction=Page.viewPage&pageId=3138&parentID=2999&stopRedirect=1>

and hard of hearing viewers. Any interpreters used for this purpose should be certified by the Judicial Council and qualified to interpret the material in question.<sup>10</sup>

### **Determination of Languages for Translation**

Once written and audiovisual tools are identified for translation, the Judicial Council must determine the languages into which materials should be translated. The LAP addresses the language threshold for translations as “[i]n English and up to five other languages, based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations and other entities working with LEP populations.”<sup>11</sup>

In the case of the Judicial Council, which provides materials and forms for statewide use, the languages for translations should, at minimum, include the top 5 languages other than English spoken in every county in the state, which in practicality may mean translating beyond the top 5 languages other than English statewide. The *Language Need and Interpreter Use Study*,<sup>12</sup> carried out by the Judicial Council every 5 years, can provide the demographic information needed to determine the languages that meet an established threshold for translation. In addition, efforts undertaken by the Judicial Council, in response to LAP recommendations addressing expansion of data sources to more accurately identify changing language needs throughout the state,<sup>13</sup> will provide the Translation Advisory Committee information regarding emerging trends to determine if the languages delineated for translation should be updated and modified with more frequency than the five-year period in between language need and interpreter use studies.

These language threshold numbers are minimum requirements only; it is the intent of this protocol that, whenever possible, as many languages as practicable be included, particularly for critical documents and information. To that end, the Translation Advisory Committee will coordinate with the above-referenced implementation efforts under the LAP regarding the improvement and augmentation of data collection efforts to determine whether certain critical materials should be translated into additional

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<sup>10</sup> Best practices in the production of videos for use by the general public, including any special considerations for the use of non-spoken language professionals, should be followed.

<sup>11</sup> [LAP](#) at 27.

<sup>12</sup> The most recent study was concluded in 2015, and is available at <http://www.courts.ca.gov/documents/lr-2015-Language-Need-and-Interpreter-Use-Study.pdf>.

<sup>13</sup> See LAP Recommendations #6 and #7, addressing data collection expansion and the need to look at sources of data beyond the more traditional U.S. Census and ACS data.



languages.<sup>14</sup> Where translation costs become prohibitive, alternatives, such as those discussed elsewhere in the Translation Protocol and Translation Action Plan,<sup>15</sup> should be explored to provide at least critical information and informational resources in more languages.

### Qualifications of Translation Providers

As the LAP reiterates throughout its provisions, to ensure meaningful language access the Judicial Council and the courts must provide high-quality language access services. Therefore, all Judicial Council translations must be performed by highly qualified translators.

The LAP recommends that translators be accredited by the American Translators Association (ATA)<sup>16</sup> and have a court or legal specialization; in the alternative, translators must have been determined to be qualified based on experience, education, and references.<sup>17</sup> Generally, when not ATA certified, translators should possess a degree or certificate from an accredited university (if in the USA), or the equivalent (in a foreign country) in translation and/or linguistic studies, or equivalent experience as a translator.

Key factors to consider when choosing a qualified translator include:<sup>18</sup>

- Language match: Ensure the translator's language match is the appropriate one required for the job. ATA certification, for example, is provided not only for a particular language pair (such as English and Spanish) but also in a particular direction, such as *from* English *to* Spanish (or vice versa, or both). The translator chosen should be certified or otherwise qualified in both the relevant language pair and the appropriate direction.

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<sup>14</sup> The Judicial Council should consider enhancing the scope of the *Language Need and Interpreter Use Study* to capture data that may be particularly useful in making translation decisions.

<sup>15</sup> A Translation Action Plan for prioritization of translations during Phases 1 and 2 of the LAP Implementation has been created as a complement to this Translation Protocol. It includes overall document categories for prioritization and strategies for creating cost-efficient and effective translations.

<sup>16</sup> At [www.atanet.org](http://www.atanet.org).

<sup>17</sup> Though a credentialed court interpreter may also be a qualified translator, the skills required for competency in translation are very different from those required of interpreters. Therefore, not all certified interpreters are qualified to perform translation of legal documents, and therefore should only be used as translators when also qualified, through education and/or experience, to translate.

<sup>18</sup> See discussion in [Guide to Translation of Legal Materials](#), National Center for State Courts (April 2011).

- **Level of qualification:** The translator’s level of qualification, education, experience and specialization should be carefully examined given the level of complexity of Judicial Council forms, and the specialized nature of the information provided in Judicial Council informational and educational materials and tools.
- **Membership in a professional body:** As recommended by the LAP, translators used should be certified by the American Translators Association (ATA), which has a translation certification exam (currently available in more than 25 language pairs), Code of Ethics, continuing education requirements, and disciplinary power over its members. For languages for which there are no certified translators, the Judicial Council should employ a translator who is an ATA member, and has therefore agreed to adhere to the ATA’s Code of Ethics.
- **Access to translation technology tools:** Most professional translators have advanced translation software and technologies that enable them to work more efficiently and effectively. Translation memory software, for example, uses stored memory to reuse already-translated content in subsequent translations, obviating the need to re-translate the same text over and over again and making translations more standardized, efficient, and cost-effective.

In addition, qualified translation providers should incorporate into their services a quality assurance process and review by a second, similarly certified and qualified translator. It is necessary, then, that qualifications of both primary and secondary translators be closely examined before entering into a translation contract.

### **Consideration of Translation Costs**

Translation work consists of a great deal more than the standard “per word” charge (or “per hour” depending on the translation provider), which itself can vary widely between translators and languages to be translated. In addition to charges per word of original text or per hour of work, other common costs to expect as part of a translation contract (or to ensure are included in the quoted “per word” or “per hour” charge) include:

- **Editing,** including tailoring language to readers; ensuring smoothness of text; checking syntax and idioms, style, spelling, typography, and punctuation; and copyediting and proofreading for consistency.
- **Reviewing,** which ensures that the translated text accurately reflects the original text, meets the readability criteria appropriate for the text in question, and is

culturally competent. The reviewer must compare the source text with the translation, making corrections and editorial improvements where necessary.

- Proofreading, which is the final check for any typographical, spelling, or other errors. It does not address the accuracy of the translation, which should already be complete and accurate.
- Formatting, which results in uniformity in the presentation, organization and arrangement of the document, as well as its layout and style. Formatting may also include the redesign of a document so that a bilingual format can be followed, as opposed to the more standard monolingual format.<sup>19</sup>

For translation of texts that are delivered via tools other than print or web, such as audio scripts or videos, some of these costs may be different. For example, whereas formatting of a document may not be critical for a video script, the translation vendor may have to assist with adaptation of the captions, fitting the images/video provided, particularly for languages for which the Judicial Council does not already have staff that can assist with those steps. Similarly, some translation vendors may offer voice talent services for recording of audio or video voiceover in the various languages into which the material has been translated.

### Translation Glossaries

Translation, like interpretation, is not an exact science. In their work, translators focus primarily on translating the meaning of a given text, not on a word-by-word rendition of content. In addition, different translators may prefer different word choices for their translations. Having inconsistent terminology used on Judicial Council forms and materials can be very confusing for consumers of court information, whether in English or in any other language. It is essential that court users, already facing an unfamiliar and

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<sup>19</sup> As briefly discussed above, a bilingual (or multilingual) format displays the English and the non-English translation side by side or one above the other on the document. An example of a bilingual format (English/Spanish) is the *Summons – Family Law* ([Form FL-110](#)). With monolingual formatting, one language appears on the document; the document is essentially a “mirror” to the English. Bilingual formats allow all participants to have a clear understanding of the information, since the same form contains all the same information. Other advantages: It allows English-speaking staff to assist LEP persons with form completion; providing the text in English next to the foreign language text reduces the risk of using a form in error and increases the likelihood that the form will be filled out in English. However, bilingual formatting presents challenges with formatting of the original English document, as space for the English text is severely reduced and the form can become overwhelming and confusing with text in various languages.

complex court system, be provided with user-friendly, understandable and consistent information throughout their encounter with the system.

In order to ensure that all the terminology used in Judicial Council translations is standardized and consistent, the Judicial Council should develop and maintain glossaries in all languages supported by the Judicial Council, including plain English. The Council has already developed a plain language [English](#) glossary and an [English-Spanish glossary](#) that provide consistent legal terminology in English and Spanish. Other possible current sources of standardized legal terminology that may form the basis for glossaries in other target languages include the Superior Court of Sacramento's [12 foreign language glossaries](#) and the NCSC's [legal terminology glossaries in four languages](#) on its public website. Several state court interpreter programs have also developed legal glossaries in a number of languages. In addition to creating glossaries for those languages addressed by Judicial Council translations, the Judicial Council should strive to create glossaries in other languages in order to provide them as a resource to speakers of those languages. They should also be available to courts that may need to target those languages for additional translation to address local LEP court user needs so that they may benefit from standardization and consistency.

As detailed below in the steps of the translation process, the Judicial Council should make available any existing glossaries to its translation vendors and require those glossaries to be used. Where glossaries have not yet been developed, part of the translation contract should include the requirement that translation agencies and translators build legal terminology glossaries. Translation contracts should clearly specify that the glossaries are to be the property of the Judicial Council and made freely available to the public, the courts throughout the state, and all other translation vendors employed by the Judicial Council.

The work of glossary development and maintenance involves close collaboration with translation contractors to continually add to and refine the glossary based on new documents translated. The Translation Advisory Committee will develop a process for obtaining feedback and suggestions from court interpreters in the field on changes and improvements to the various glossaries. Similarly, subject matter experts, bilingual in the various languages targeted by the Council, should be engaged to assist in legal review of translated terminology and to ensure accuracy of developed glossaries.

## Machine Translation

Machine translation, the process of translation of text by a computer, with no human involvement, is increasingly in use by businesses, government agencies, courts, and others to make content (primarily web content) accessible in other languages. Although machine translations can be fast and cost-effective, they often include inaccuracies, especially with regard to complex text such as legal content. Not only are words and phrases mistranslated, the systems and rules used by the technology cannot solve ambiguity or translate nuances since they are unable to utilize experience and cultural or content expertise in the manner that a translator can. In the legal system, these translation errors can have dire consequences for LEP persons.

Machine translation can help with an initial translation of text, to expedite the process, as long as a qualified human translator then carefully and fully reviews and edits the translation as needed. Where machine translation features are used on the Judicial Council website to give LEP users multi-lingual access to information beyond the languages the Judicial Council is able to support through the work of qualified translation providers, users of the machine translation features should be notified of the possibility for errors and misinformation, as a result. Disclaimer language regarding the potential for mistranslation when using machine translation should be available in the user's primary language.

## The Translation Process<sup>20</sup>

### Step 1: Review and Prepare Document Prior to Translation

Before a document is sent out for translation, the English version must itself be of high quality. This means the document must be:

- Reviewed for grammatical and typographical issues, having undergone the type of rigorous copyediting generally performed for Judicial Council publications;
- Written in plain language,<sup>21</sup> with no or minimal (if necessary) use of legalese, in the active voice, with simple sentences, short paragraphs, no jargon, no abbreviations, and no use of acronyms.
- Within readability goals for the intended population, which for instructional and educational materials should be aimed at a fifth-grade reading level.

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<sup>20</sup> See Appendix B for an overview of the translation process.

<sup>21</sup> See Appendix D for a discussion of plain language principles.

- Formatted as to allow for variances in other languages, such as longer text (many languages can expand the required space for text by up to 30% for the same content as in English), direction of text, etc.
- Checked for the use of consistent terminology within the document and consistency with other documents in the same or related case types.
- Written with language that is general enough that it applies across courts and counties, avoiding room numbers, locations, office designations, or other specific language that changes from court to court. (This is particularly important for documents that the Judicial Council intends to provide as templates or as samples for local court adaptation.)
- Culturally competent, avoiding idiomatic expressions or colloquialisms (expressions that do not have the same meaning in other languages and cultures). If certain text is unavoidable, then special consideration should be given to finding the best possible translation.

In addition to ensuring that the English document to be translated is of a high quality, there are other steps in the preparation of the document that can assist the translation process, particularly in terms of identifying efficiencies and cost savings. There may be similar documents for which translation is needed that have only slight differences. Repetitive language can be streamlined so that it can be translated only once. For example, language that appears on most Judicial Council forms and has already been translated can be provided to the translator (e.g., oaths, signature lines, warnings, etc.). Additionally, repetitive language on form sets (such as divorce forms) need only be translated once. Identification of these instances, before submitting a document or set of documents for translations, will contribute to making the translation work most cost-effective.

As the Judicial Council expands its efforts to develop information in alternative formats to increase accessibility, such as audio or video recordings of generally applicable information or other materials, particular care must be taken in the development of the source English script. Script preparation and translation will have to consider cultural and linguistic elements that might affect how the spoken word should be presented. For example, a spoken word presentation might be in a different register than a form or an information sheet.

## **Step 2. Select and Contract with Translation Vendor**

As discussed above and recommended in the LAP, the Judicial Council should select a professional translator, certified by the American Translators Association in the

language(s) in which they work, with a court or legal specialization. For languages that are less common or for which there is a smaller market of professionals, a translator may demonstrate competence through experience, education, and references.

When selecting and contracting with a translation agency or professional translator, the agency or translator should agree to provide the initial translation and commit to using any existing glossaries (or develop new ones) as described above, in order to ensure consistency and standardization of translated terms. The translation agency or translator should also commit to having a second independent professional translator review the translation before delivering it to the Judicial Council. The qualifications of the second translator should meet the requirements established in this protocol for all translators. This secondary translator should also perform a cultural competency review for the material being translated, to ensure it is appropriate for the intended LEP population(s). After delivery to the Judicial Council, the agency or translator should be willing to make corrections based on any concerns regarding the communication of legal concepts and any errors found in the work of the translator or agency.

To best ensure the quality, accuracy and consistency of translations, the Judicial Council should provide the translator or translation vendor with the following:

- Background on the purpose of the document, the audience, and other relevant information,
- Any existing legal terminology glossaries already developed by the Judicial Council,
- Instructions for consistent naming and identification of documents, so that all translated documents include a footer with the name of the document, the date of translation, and the language of translation, and
- A contact person to whom to direct inquiries regarding the translation process, product, or subject matter questions regarding the English source material.

Depending on the material to be translated, the Judicial Council may request that the translation contract include document formatting. If so, the contractor must adhere to Judicial Council formatting standards and the final copy of the document must be housed with, and be the property of, the Judicial Council. If the translation vendor is approached by another entity requesting use of the material, the vendor must refer that entity to the Judicial Council for permission to utilize the content and delineation of how material may be used and/or modified, if at all.

### **Step 3. Legal Review of Translation**

Once the final translation is received from the translation vendor, the Judicial Council should conduct a legal review of the translation to ensure that all legal concepts have been accurately communicated and no meaning has been lost in the translation. Although highly qualified translators with legal or court specialization may be able to adequately produce technical translations, professional translators are often not attorneys and may miss legal nuances or distinctions that could significantly alter the meaning of a document, especially court forms, which can be highly technical.

Therefore, it is critical that this additional review process be built in to any translation projects. Attorneys on staff with the Judicial Council, bilingual and with near-native fluency in the non-English language, may conduct this legal review. If no staff is available for this task, the Judicial Council may have to hire an independent contractor to conduct the review.

If errors are found through the legal review process, the Judicial Council will send the edited documents to the translation vendor for correction and finalization. As detailed above in the discussion on selecting and contracting with translation providers, this additional step should be part of any translation contract.

### **Step 4. Finalization of Translated Documents by the Judicial Council**

If formatting of the translation was not part of the deliverable by the translation provider, the Judicial Council's Editing and Graphics Group should format and finalize the documents for posting and distribution. Documents that will be made available to the public by the Judicial Council should be formatted according to the standards of the agency. As discussed earlier, formatting can play a critical role in overall readability of a document, so any formatting or graphics completed outside of the work of the translation provider should be reviewed again in final format by a near-native speaker of the language to ensure that readability has been maintained.

### **Step 5. Posting and Dissemination of Translated Documents**

When a document is formally finalized, it may be made publicly available on the Judicial Council's website and/or on local court websites. A document may also be directly provided to the local courts, justice partners, and community-based organizations throughout the state, depending on the type of document and its intended use.

As provided for in several LAP recommendations, it is critical that there be communication regarding the availability of multilingual information and the



dissemination of materials aimed at LEP court users. Recommendation #38 requires Judicial Council staff to post on the California Courts website written translations of forms and other materials for the public as they become available; Recommendation #54 recommends the use of multilingual videos and audio recordings in court outreach efforts; and Recommendation #67 recommends the creation of a statewide repository of language access resources.

#### **Step 6. Monitoring of Existing Translations, Updates Needed, and Identification of Additional Materials for Translation**

Statutes, court rules, policies and procedures change, as do court forms, instructions and informational guides. While minor edits are generally easy to make on English documents, those changes must be reflected on translated documents as well. Edits and updates to existing translations should be completed by qualified translators, edited and reviewed as previously described. While typically the fees charged for such updates are much lower than the original translation, it is important to budget for these costs so that translated forms and documents continue to be made available to LEP court users.

The Translation Advisory Committee will track these needed updates and ensure completion, preferably at the same time or soon after changes are made to the English source document. In order for updates to occur in a timely manner, the Translation Advisory Committee will have to actively coordinate internally with the various Judicial Council departments and committees in charge of developing forms and other educational information.

In addition to ensuring all existing translations are maintained and up to date, the Translation Advisory Committee will apply an approved evaluation rubric to identify additional vital documents for translation as they are developed in English. Any database or other system for maintaining records of translations shall be routinely updated to reflect latest document versions, languages translated, and prospective translations to be undertaken. The database should contain the following information about each document:

- Name
- Date of creation of original document
- Author/Source of document
- Current location/URL for document
- Date of translation/language of translation
- Date of most recent update
- Translator/Reviewer
- Legal Reviewer, if any

- Any date-sensitive information (i.e., a particular piece of legislation or reference that may change over time)

To ensure that the translation efforts of the Judicial Council result in actual improvements in language access for LEP users throughout the state, any monitoring efforts should include periodic reviews of the documents and their usage. Continued review of the usability and accessibility of translated documents should be conducted by holding focus groups of LEP court users, community-based agencies, and justice partners and through surveys of courts and other providers. This data will help inform further translation efforts by the Council.

### **Posting and Dissemination of Translated Materials**

Once print and audio-visual materials are translated and finalized, the Judicial Council will make them available to all local courts, justice partners and the public at large. Those materials appropriate for inclusion in the online living tool kit will be immediately posted in any of the tool kit sections for which they may be relevant. To the extent the Judicial Council establishes other online repositories of translated information and resources, multilingual materials will also be shared and made available on those repositories as early as feasible.

Judicial Council staff will notify local courts and justice partners of the availability of these translations via any established avenues of communication, including existing listservs. Communications to courts and justice partners will encourage those agencies and organizations to share the materials with community service providers in their area and ensure dissemination of the information to LEP court users and the California public at large.

### **Contact Information for Translation Requests and Issues**

To request a translation, to report errors in existing translations, and for translation policy questions, contact the Judicial Council's Language Access Coordinator. Complaints related to existing Judicial Council translations or failure by the Judicial Council to provide translations of vital documents may be submitted using the Judicial Council Complaint Form, which will be made available at <http://www.courts.ca.gov/languageaccess.htm>, or by requesting the Complaint Form from the Language Access Coordinator at the contact information below.

Judicial Council of California  
455 Golden Gate Avenue  
San Francisco, CA 94102  
Attn: Language Access Coordinator

## Appendix A: Guidance on What Constitutes “Vital” Documents

The Department of Justice (DOJ) has issued guidance on the translation of documents by recipients of federal funds (which includes courts and the Judicial Council). Under DOJ guidance, written materials that are considered vital should be translated into the non-English language of each regularly encountered LEP group eligible to be served or likely to be affected by the program or activity, in this case the Judicial Council. Per the DOJ, a document is vital if it contains information that is critical for obtaining services or providing awareness of rights, or is required by law.<sup>22</sup> Some examples of vital documents under DOJ guidance applicable to the Judicial Council context include: notices of rights; notices advising LEP persons of the availability of free language services; complaint forms; and letters or notices that require a response from the LEP court user. DOJ guidance discusses the factors to take into account when deciding if a particular document is “vital” for purposes of translation, with the overall consideration that vital documents are those that ensure an LEP person has “meaningful access” to a particular program or service.<sup>23</sup>

When documents contain both vital and non-vital information, such as documents that are very large, or when a document is sent out to the general public and cannot reasonably be translated into many languages, DOJ guidance provides that it may be reasonable to simply translate the vital portion of the information. Programs may also decide to provide multilingual information regarding where a LEP person might obtain an interpretation or translation of the full document.<sup>24</sup>

The [ABA Standards for Providing Language Access in Courts](#) (ABA Standards) provide best practices for determining whether a document is vital for purposes of translation. The ABA Standards divide vital documents into 3 categories: (1) court information, (2) court forms, and (3) individualized documents. Since the Judicial Council does not deal with case-specific information, as cases are handled at the local court level, only the first two categories are applicable for purposes of this Translation Protocol. Local courts developing their own translation protocols will want to address the handling of case-specific documents, standards for translation of those materials, and admissibility of the translations per statutory and rule of court requirements.

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<sup>22</sup> *Commonly Asked Questions and Answers Regarding Limited English Proficient (LEP) Individuals*, at <http://www.lep.gov/faqs/faqs.html#OneQ9>.

<sup>23</sup> 67 Fed. Reg. 41455, 41463 (June 18, 2002).

<sup>24</sup> *Ibid.*

Under the ABA Standards, written information about court services or programs, including the use of written information to provide audio or video information, is critical to meaningful access for LEP court users. Judicial Council web and printed materials and videos, primarily posted in the Online Self-Help Center and also provided in other areas of the California Courts site, provide information for court users about court processes, rights, responsibilities, and how to seek relief. The ABA Standards go on to list educational guides, self-help materials, and instructions as documents that should be translated and widely distributed. Other documents to prioritize are those related to the protection and safety of a litigant or a child. A court's website content, to the extent it is informational in nature, should be considered for translation as well and include plans for regular updates and multilingual content development.

Court forms, per the ABA Standards, are vital to accessing the courts and protecting rights. The Standards discuss pleading forms used to initiate or respond to a case as vital. Although discussed in the context of case-specific documents, the ABA Standards also address court orders as vital documents, critical to enforceability of court orders and the administration of justice. While case-specific documents are not under the purview of this protocol, Judicial Council forms, including court order forms, are, and would likely be considered, vital documents for purposes of translation. Local courts would then be responsible for translating any additional orders and findings not printed on the Judicial Council form itself.

## Appendix B – Overview of the Translation Process

### **Step 1: Review and Prepare Document Prior to Translation**

When submitting a document for translation, the English version must be of high quality. The document must be: (1) copyedited and free of errors; (2) in plain language; (3) accessible from a readability perspective; (4) properly formatted; (5) consistent with regard to terminology and other related documents; and (6) culturally competent.

### **Step 2. Select and Contract with Translation Vendor**

The Judicial Council should select a professional translator, certified by the American Translators Association in the language(s) in which they work with a court or legal specialization. For languages that are less common or for which there is a smaller market of professionals, a translator may demonstrate competence through experience, education, and references. The contract with the translation provider should include: (1) initial translation by a qualified translator; (2) use of a glossary of common terms; (3) review by a second independent professional translator; and (4) formatting, if requested.

### **Step 3. Legal Review of Translation**

Once the final translation is received from the translation provider, the Judicial Council should conduct a legal review of the translation through a bilingual attorney, or similarly qualified subject matter expert, to ensure that all legal concepts have been accurately communicated and no meaning has been lost in the translation.

### **Step 4. Finalization of Translated Documents by the Judicial Council**

If formatting of the translation was not part of the deliverable by the translation provider, the Judicial Council's Editing and Graphics Group should format and finalize the documents for posting and distribution.

### **Step 5. Posting and Dissemination of Translated Documents**

When a document is formally finalized, it will be made publicly available on the Judicial Council's website and/or on local court websites. It may also be directly provided to the local courts, justice partners, and community-based organizations throughout the state, depending on the type of document and its intended use.

### **Step 6. Monitoring of Existing Translations, Updates Needed, and Identification of Additional Materials for Translation**

The Translation Advisory Committee will track any needed updates to translated forms and materials in a timely fashion. In addition to ensuring that all existing translations are maintained and up to date, the Translation Advisory Committee will apply an approved evaluation rubric to identify vital documents as needed and as translation resources become available.

## Appendix C: Glossary of Terms

**Bilingual or Multilingual Format**—Formatting a translated document so that the English and the foreign language text are provided together on one document. The non-English translation is positioned directly under or after each English word, sentence or paragraph, or side by side with the English content.

**Local Court Forms**—Forms created by a superior court specifically for use in that court, when a Judicial Council mandatory form does not exist or a court’s procedures require additional information not provided on the statewide form.

**Mandatory Judicial Council Forms**—Judicial Council forms that have been adopted for mandatory statewide use, as opposed to optional forms, which, as their name implies, are statewide forms that may be used by court users but are not required as the only means for filing a particular pleading.

**Monolingual Format**—Developing the translated version using the same format, font and size as the original English document (a “mirror image”).

**Optional Judicial Council Forms**—Judicial Council forms that have been approved for optional statewide use, as opposed to mandatory forms. As their name implies, optional forms may be used by court users but are not required as the only means for filing a particular pleading.

**INFO Court Forms**—Judicial Council forms provided for informational purposes only. They describe a particular process to the court user, usually applicable to a particular court proceeding. Examples are [FL-107-INFO](#), describing the overall process of a divorce or legal separation in California, [DV-500-INFO](#), describing domestic violence restraining orders, and many more. They are usually designated by the suffix “INFO”.

## Appendix D: Plain Language

Plain language is communication that the intended audience can understand the first time they read or hear it. Plain language principles include:

- Text at the reading level of the average user
- Useful headings
- Addressing the reader directly (e.g., “you”)
- Use of the active voice
- Short, simple sentences
- No excess words
- Concrete, familiar words
- Use of “must” to express requirements; avoiding “shall”
- Consistent, accurate punctuation
- Short paragraphs and bullet lists
- Placing words carefully (avoiding large gaps between the subject, verb and object; putting exceptions last; placing modifiers correctly)
- Avoiding foreign words, jargon, acronyms, colloquialisms, idioms, and abbreviations
- Saving longer or complex words for when they are essential
- Presenting information intuitively
- Testing of draft document on sample users

Content can be checked for readability to determine if the material is written at a level that the intended audience can understand. Microsoft Word allows for an author to check a document using its readability testing tools, including the Flesch and Flesch-Kincaid tests. Accessing these tools may vary between different versions of Microsoft Word, including the Mac versus PC versions. To use these tools, users can look for preferences or options related to spelling and grammar, and make sure the feature called “Show readability statistics” is enabled. After the grammar and spell check are completed, a screen titled “Readability Statistics” will appear, giving the author information regarding the accessibility of the material. Currently, web material aimed at self-represented litigants in California on the Online Self-Help Center is aimed at a fifth-grade reading level, to ensure that most audiences in the state can fully understand the material.

For more information and tools for plain language writing, see *The Plain Language Act of 2010*, H.R. 946, 111<sup>th</sup> Cong. (2010). The Act is applicable to executive branch federal agencies, but the Act and the [www.plainlanguage.gov](http://www.plainlanguage.gov) site provide information regarding the usefulness and movement toward plain language documents.

In the next two pages, see samples of Judicial Council form DV-110 before plain language translation and after plain language translation, as prepared by Transcend.



**Before:**

PERSON SEEKING ORDER (name):	CASE NUMBER:
PERSON TO BE RESTRAINED (name):	

**NOTICE REGARDING ENFORCEMENT OF THIS ORDER**

This order is effective when made. It is enforceable anywhere in California by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If proof of service on the restrained person has not been received, and the restrained person was not present at the court hearing, the law enforcement agency shall advise the restrained person of the terms of the order and then shall enforce it.

Violation of this restraining order may be punished as a contempt of court; a misdemeanor, punishable by one year in jail, a \$1,000 fine, or both; or a felony. Taking or concealing a child in violation of this order may be a felony and punishable by confinement in state prison, a fine, or both.

This order is enforceable in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories and shall be enforced as if it were an order of that jurisdiction. Violations of this order are subject to state and federal criminal penalties.

If you travel across state or tribal boundaries with the intent to violate the order (including committing a crime of violence causing bodily injury), you may be convicted of a federal offense under VAWA (section 2261(a)(1)). You may also be convicted of a federal offense if you cause the protected person to cross a state or tribal boundary for this purpose (section 2262(a)(2)).

**NOTICE REGARDING FIREARMS**

**Any person subject to a restraining order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. At the hearing on this matter, the court will order that the person subject to these orders shall relinquish any firearms and not own or possess or purchase or receive or attempt to purchase or receive any firearms during the period of the restraining order. Under federal law, the issuance of a restraining order after hearing will generally prohibit the restrained person from owning, accepting, transporting, or possessing firearms or ammunition. A violation of this prohibition is a separate federal crime.**

**WHAT FORMS YOU SHOULD FILE IN RESPONSE AND WHEN TO FILE THEM**

You do not have to pay any fee to file responsive declarations in response to this *Order to Show Cause* (including a completed *Income and Expense Declaration* or *Financial Statement (Simplified)*) that will show your finances). The original of the *Responsive Declaration* must be filed with the court and a copy served on the other party at least ten court days before the hearing date (unless the judge has shortened time; see item 13 above in this *Order to Show Cause and Temporary Restraining Order*).

**NOTICE REGARDING CHILD SUPPORT**

If you have children from this relationship, the court is required to order payment of child support based on the income of both parents. The amount of child support may be large and normally continues until the child is 18. You should supply the court with information about your finances. Otherwise the child support order will be made without your input.

**CLERK'S CERTIFICATE**

[SEAL]

I certify that the foregoing *Order to Show Cause and Temporary Restraining Order (CLETS)* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

RGL: 12, Word Count: 584

**After:**

Case Number:

Protected person's name: \_\_\_\_\_

- 17 Warning!** If you have been served with a restraining order, you must obey all orders. Read the Notices on this page carefully.
- It is a felony to take or hide a child against this order. You can go to prison and/or pay a fine.
  - If you travel to another state or to tribal lands, or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime under the Violence Against Women Act.



**18 Guns**



If **9** is checked, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get a gun until this order ends. If you do, you can go to jail and pay a \$1,000 fine.

If the court approves the restraining orders at a hearing, you must sell to a gun dealer or turn in to police any guns, firearms, or ammunition that you have or control. The judge will ask you for proof that you did so.

If you do not obey this order, you can be charged with a crime.

**19 What to do after you have been served with a Restraining Order:**

- Obey all the orders.
- If you want to answer, fill out Form FL-820. Take it to the court clerk with the forms listed in **20b** below.
- File FL-820 and have all papers served on the protected person by the date indicated in **16** of this form.
- You do not have to pay to file Form FL-820 or other forms needed to answer.
- At the hearing, tell the judge if you agree to or disagree with the orders requested.

**20 Child Custody, Visitation, and Child Support:**

- Child Custody and Visitation: If you do not go to the hearing, the judge can make custody and visitation orders for your children without hearing your side.
- Child Support: The judge can order child support based on the income of both parents. The judge can also have that support taken directly from your paycheck. Child support can be a lot of money and usually you have to pay until the child is 18. File and serve a *Financial Statement* (FL-155) or an *Income and Expense Declaration* (FL-150) so the judge will have information about your finances. Otherwise, the court will make support orders without hearing your side.

Flesch-Kincaid Grade Level	7.6
Word Count	389

## Appendix E: Translation Resources

[ABA Standards for Language Access in Courts](#), American Bar Association (Feb. 2012).

[Equal Access as it Relates to Interpretation and Translation Services](#), National Association of Judiciary Interpreters and Translators (NAJIT) (May 2006).

[Guide to Translation of Legal Materials](#), National Center for State Courts (NCSC) (April 2011).

[Language Access Planning and Technical Assistance Tools for Courts](#), U.S. DOJ (Feb. 2014).

[PlainLanguage.Gov](#)

[Translation Getting it Right: A guide to buying translation](#), American Translators Association (ATA) (2011).

[Useful Resources and Links About Court and Legal Interpreting and Translation](#), with links to several state and local translator associations, educational institutions, and more.