

SUPREME COURT OF NEVADA  
MICHAEL L. DOUGLAS, CHIEF JUSTICE  
201 SOUTH CARSON STREET  
CARSON CITY, NEVADA 89701-4702  
(775) 684-1755



August 16, 2011

[Addressed individually to all State District, Justice and Municipal Court Judges]

Re: Language Interpreters and Access to the Courts by Persons with Limited English Proficiency

Dear

Dispensing justice fairly, efficiently, and accurately is a cornerstone of the civil and criminal judiciary.

Matters involving parties who are limited English proficient (LEP), mandate policies and/or practices that are not inconsistent with federal civil rights' requirements. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.*, (Title VI), and the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3789d(c) (Safe Streets Act), both prohibit national origin discrimination by recipients of federal funds and prohibit recipients from administering programs in a manner that has the effect of subjecting individuals to discrimination based on their national origin. See 28 C.F.R. §§ 42.104(b)(2), 42.203(e).

The United States Supreme Court has held that failing to take reasonable steps to ensure meaningful access for LEP persons is a form of national origin discrimination prohibited by Title VI regulations. See Lau v. Nichols, 414 U.S. 563 (1974). Additionally, the DOJ and the Civil Rights Division, require that courts and court systems receiving federal financial assistance, either directly or indirectly provide meaningful access to LEP persons in order to comply with Title VI (Safe Streets Act), and their regulations.

So, what does this mean to your court? In short, it means that your court is required to have a plan so that LEP persons are not impeded, hindered, or restricted in participation in court proceedings and access to court operations based upon a person's English language ability. A failure to comply can mean a loss of Federal funds to the court or the state.

Examples of particular concerns include the following:

1. Limiting the types of proceedings for which interpreter services are provided by the courts;
2. Charging interpreter costs to one or more parties;
3. Restricting language services to courtrooms;
4. Failing to ensure effective communication with court-appointed or supervisory personnel.

So . . . does your court have a plan to address LEP, if not, please give Robin Sweet, Director, Administrative Office of the Courts, or myself a call.

Sincerely,

**Michael L. Douglas, Chief Justice  
Supreme Court of Nevada**

MLD:llm

Attachment

cc: Governor Brian Sandoval  
Justices  
Robin Sweet

# Supreme Court of Colorado

101 West Colfax Avenue, Suite 800  
Denver, Colorado 80202-5315  
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Michael L. Bender  
Chief Justice

Telephone: 303.837.3741  
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June 28, 2011

Dear COSCA and CCJ Members:

On July 1<sup>st</sup> the Colorado Judicial Department will reach a significant milestone in increasing access to justice for all court users through expanded language interpreter services, aiding Justices, Judges and employees who have contact with persons whose first language is not English, and coming into compliance with Title VI and Executive Order 13166. Through extensive work with the Federal Coordination and Compliance Section of the Civil Rights Division of the U.S. Department of Justice, the Colorado Judicial Department has significantly revised Chief Justice Directive 06-03, which now not only provides language interpreters for all case types, but also ensures language access in all court operations.

Full transition will take some time. We will continue to rely on the experience and expertise of other members of the Consortium for Language Access in the Courts as we move forward.

If you have any questions regarding this transition, please contact Colorado's Court Interpreter Program Administrator, Emy López, at [emy.lopez@judicial.state.co.us](mailto:emy.lopez@judicial.state.co.us) or 303.837.2326.

Sincerely,



Michael L. Bender  
Chief Justice  
Colorado Supreme Court

**MEMORANDUM OF AGREEMENT  
BETWEEN**

**THE UNITED STATES OF AMERICA  
AND  
THE COLORADO JUDICIAL DEPARTMENT**

**DEPARTMENT OF JUSTICE NUMBER 171-13-63**

**A. SCOPE OF THE INVESTIGATION**

1. The United States Department of Justice (DOJ) has conducted an investigation under Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.*, (Title VI) and the Omnibus Crime Control and Safe Streets Act, as amended, 42 U.S.C. § 3789d(c), (Safe Streets Act) in response to an administrative complaint filed against the Colorado Judicial Department (CJD). The complaint alleged that CJD failed to provide interpreters and other language access services in all court proceedings and operations to limited English proficient (LEP) individuals.

2. CJD constitutes the judicial branch of government for the State of Colorado with the judicial power of the state being vested in a supreme court, a court of appeals, twenty-two district courts, a probate court in the city and county of Denver, a juvenile court in the city and county of Denver, sixty-three county courts, excluding Denver county court, and seven division water courts. The Chief Justice of the Supreme Court is the executive head of CJD.

**B. JURISDICTION**

1. DOJ has jurisdiction over this matter under Title VI and the Safe Streets Act. Together, these statutes and their implementing regulations, codified at 28 C.F.R. §42.101, *et seq.*, and §42.201, *et seq.*, prohibit discrimination on the basis of race, color, national origin, sex, and religion in DOJ-funded programs or activities.

2. DOJ is authorized under 28 C.F.R. Part 42, Subpart C and Subpart D to investigate the complaint in this matter to determine CJD's compliance with Title VI and the Safe Streets Act, to issue findings, and, where appropriate, to negotiate and secure voluntary compliance. Furthermore, the Attorney General is authorized under 28 C.F.R. §42.108 and 28 C.F.R. §42.210 to suspend or terminate financial assistance to CJD provided by DOJ should DOJ fail to secure voluntary compliance pursuant to Subpart C or Subpart D, or to bring a civil suit or take other action to enforce the rights of the United States under applicable federal, state, or local law.

3. This Memorandum of Agreement (MOA) does not constitute an admission with regard to any specific allegations investigated in this matter. The purpose of the MOA is to

memorialize CJD's commitment to devise and implement the policies, plans, and procedures needed to ensure compliance with the non-discrimination provisions of Title VI and the Safe Streets Act as they relate to access to court proceedings and operations by persons with limited English proficiency.

4. The parties to this MOA are the United States of America and CJD. The persons signing for the CJD represent that they are authorized to bind CJD to this MOA.

5. In order to avoid the burdens and expenses of further investigation and possible litigation, the parties hereby agree as follows:

### **C. REMEDIAL ACTION**

1. CJD agrees to comply with Title VI, the Safe Streets Act, and corresponding implementing regulations. It shall provide meaningful access at no cost to LEP parties in interest in all court proceedings and operations.

2. The Chief Justice of the Colorado Supreme Court has issued the attached Chief Justice Directive 06-03, as amended, (Directive) on language access contemporaneously with this MOA. The Directive is effective July 1, 2011, and requires CJD to provide comprehensive, qualified language assistance to LEP parties in interest<sup>1</sup> in all court proceedings<sup>2</sup> and operations<sup>3</sup> at no charge. CJD shall release the Directive to court personnel and to the public and post it on the CJD website promptly upon its issuance by the Chief Justice and before its effective date. CJD agrees to take such actions as are necessary to implement the provisions of the Directive.

3. Within thirty days, the Chief Justice shall appoint at least eight additional consultative members to the CJD Court Interpreter Oversight Committee<sup>4</sup>, none of whom shall be employed by CJD or working as court interpreters. The appointees shall include a Colorado Legal Services attorney, a prosecutor, a public defender, an advocate representing the interests of the language minority populations in Colorado, and other members of the bar or community, all of whom shall have relevant experience in court language access issues. Thereafter, the new committee members will be invited to participate in regular meetings of the Committee and to provide to the Chief Justice and Committee feedback on the state and district language access plans, efforts to implement the Directive, the advisability of conforming revisions to state and local rules and forms, and other issues relating to providing language access.

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<sup>1</sup> A party in interest is defined in the Directive as "A party to a case; a victim; a witness; the parent, legal guardian, or custodian of a minor party; and the legal guardian or custodian of an adult party."

<sup>2</sup> A court proceeding is defined in the Directive as "Any hearing, trial or other appearance before any Colorado state court in an action, appeal, or other proceeding, including any matter conducted by a judicial officer."

<sup>3</sup> Court operations are defined in the Directive as "Offices of the courts, services, and programs managed or conducted by the courts and probation, not including court proceedings, which involve contact with the public or parties in interest."

<sup>4</sup> CJD is contemplating other changes to the name, mission, and composition of the Committee and may at any time present a proposal for review and approval to DOJ regarding such changes to the Committee.

4. CJD shall submit to DOJ for review and approval a proposed state Language Access Plan (LAP) within ninety days. The plan shall set forth the management actions needed to implement the Directive and ensure compliance with Title VI, including the translation of vital documents into languages as designated by highest need, and the tasks to be undertaken, assignment of responsibility, deadlines, and process. CJD shall take such actions as are necessary to implement the LAP.

5. CJD shall submit to DOJ for review and approval proposed District Language Access Plans (DLAPs) as they are completed within sixty days of DOJ's approval of the State LAP. The DLAPs shall set forth the management actions needed at the district level to implement the Directive and ensure compliance with Title VI, including the translation of vital documents, and the tasks to be undertaken, assignment of responsibility, deadlines, and process. CJD shall ensure that the districts take such actions as are necessary to implement their DLAPs and the state LAP.

6. Within six months of the issuance of the Directive and the State LAP, whichever is later, CJD shall submit to DOJ for review and approval the other policies, forms, and procedures appropriate to implement the Directive and LAP. CJD shall thereafter take such actions as are necessary to publish the forms and implement the policies and procedures.

7. The parties shall discuss the extent to which CJD has succeeded in complying with the requirements of paragraph C.1 – C.6 above, the efficacy of the Directive, LAP, DLAPs, and other language access policies and procedures, and whether any modifications are needed. These discussions shall occur following the submission of each report specified in D.1 below, and upon request of a party at any other time. CJD shall submit to DOJ for review and approval any proposed modifications to the approved Directive, LAP, DLAPs, policies, and procedures and shall take such actions as are necessary to implement the changes.

#### **D. MONITORING**

1. Every six months after the effective date of this MOA, and thirty days prior to its expiration, CJD will submit detailed written reports to DOJ documenting the efforts made to implement the Directive and to comply with the language access requirements of Title VI and the Safe Streets Act.

2. The reports shall include, but not be limited to, the following categories of information:
  - a. The actions the CJD has taken or intends to take to comply with the MOA, implement the Directive, and execute the LAP;
    - i. Any further policies or procedures drafted or issued for these purposes; and
    - ii. Any language related notices, forms, and signs drafted or issued;

- b. Data on services provided pursuant to the Directive and LAP, by court or court program, location, language, and the form and mode of language assistance, including data that indicates:
  - i. Any delays resulting from unavailable language assistance;
  - ii. Instances in which language assistance is not provided and the reasons therefor;
- c. Data on the application of Section IV. C of the Directive, including number of interpreters and bilingual staff used, broken down by:
  - i. Event, to include:
    - a. Court or court program, including location; and
    - b. Type of proceeding and case type;
  - ii. Interpreter, to include:
    - a. Language;
    - b. Qualification level, as professionally certified, professionally qualified, or registered;
    - c. Employment status as managing interpreter, staff interpreter, or contractor; and
    - d. State of residence;
  - iii. Event and interpreter, as set forth above, if CJD is able reasonably to enhance its case management software or devise other methods to collect such data;
- d. Information regarding problems encountered in implementing the Directive and LAPs, including feedback gathered from the bench, bar, staff, and public; and
  - i. The process established to receive and respond to language access complaints;
  - ii. The number, nature, and disposition of any language access complaints;
- e. The steps taken to notify the bench, bar, litigants, and public of the Directive and any other policies or procedures to implement the Directive and LAPs, and any responses thereto;
- f. The trainings provided to judges, staff, and others regarding the Directive and any related language access matters, including the content of the trainings, training materials, dates held, trainers, and names and positions of attendees;
- g. Steps taken to recruit, train, set standards for, qualify, and certify interpreters, translators, and bilingual staff;
- h. Lists of authorized interpreters, translators, and bilingual staff specifying language, test results, and type of authorization;
- i. Lists of documents, signage, forms, web content, and audio or video content that have been or will be translated, the languages completed or intended for each, and the means by which the items will be distributed internally and made available to litigants;
- j. Additional steps taken to ensure quality communication when utilizing remote interpretation; and
- k. Once a year, the report shall include figures on spending for language services.

## **E. GENERAL TERMS**


1. The term “review and approval” refers to the following process that the parties shall use to issue or modify a document other than a DLAP:
  - a. Upon receipt of the document from CJD, DOJ shall review it and provide comments to CJD within thirty days;
  - b. Within sixty days of the receipt of the comments, the parties may discuss them, and CJD shall respond and submit a revised version of the document to DOJ;
  - c. Within thirty days of the receipt of the revised document, DOJ shall return it to CJD with any changes DOJ requires; and
  - d. CJD shall publish the document with the required changes within thirty days of its receipt.
  - e. If the relevant document is a DLAP, the time periods in subparagraph a. and c. above shall be ninety days and sixty days, respectively.
  
2. DOJ may review compliance with this MOA at any time. If DOJ believes that CJD has failed to comply in a timely manner with any requirement of this MOA without obtaining advance written approval from DOJ for a modification of the relevant terms, DOJ will so notify CJD in writing and will attempt to resolve the issue or issues in good faith. If DOJ concludes that the parties have been unable to reach a satisfactory resolution of the issue or issues raised within sixty days of the date it provided notice to CJD, DOJ may institute a civil action in federal district court to enforce the terms of this MOA or take other action as allowed by law.
  
3. Failure by DOJ to enforce this entire MOA or any provision thereof with regard to any deadline or any other provision herein shall not be construed as a waiver of DOJ’s right to enforce the deadlines and provisions of this MOA.
  
4. This MOA is a public document. CJD and DOJ shall make it available to any person upon request.
  
5. This MOA constitutes the entire agreement between the parties on the matters raised herein, and no other statement or promise, either written or oral, made by either party or agents of either party regarding the matters raised herein that is not contained or referred to in this MOA shall be enforceable. This MOA does not purport to remedy any other potential violations of Title VI and/or the Safe Streets Act or any other federal law. This MOA does not affect CJD's continuing responsibility to comply with Title VI, the Safe Streets Act, or any other federal law. Nor does it preclude DOJ from carrying out its duties under Title VI and the Safe Streets Act should a new complaint be filed with DOJ.



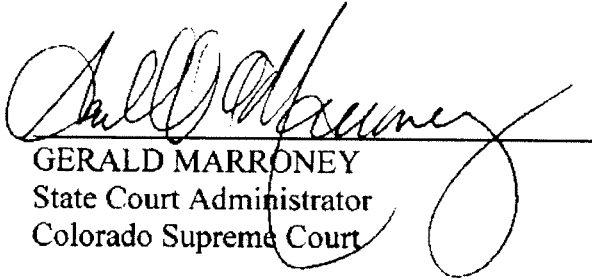
**F. EFFECTIVE DATE AND TERMINATION**

1. The effective date of this MOA is the date of the last signature below.
2. Except as otherwise set forth, all deadlines for action are counted from the effective date.
3. This MOA will remain in effect for three years following CJD's publication of the latter of the Directive and LAP approved in accordance with Paragraphs C.2 and C.4 above; provided, however, that CJD is in substantial compliance with the terms of this MOA at that time and has been in substantial compliance continuously during the preceding year.

For the Colorado Judicial Department:



MICHAEL L. BENDER  
Chief Justice  
Colorado Supreme Court



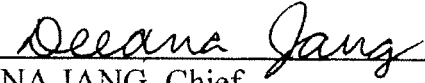
GERALD MARRONEY  
State Court Administrator  
Colorado Supreme Court

101 West Colfax Avenue, Suite 800  
Denver, CO 80202

Dated: 6/28/11

For the United States:

THOMAS E. PEREZ  
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By: 

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U.S. Department of Justice  
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Dated: 6/28/11