



U.S. Department of Justice

Civil Rights Division

*Federal Coordination and Compliance Section
950 Pennsylvania Ave, NW
Washington, DC 20530*

November 12, 2020

Via Email

Deborah Brown
Chief Counsel
Judicial Council of California
455 Golden Gate Ave.
San Francisco, CA 94102

Re: Complaint No. 171-12C-31

Dear Ms. Brown:

This letter notifies you that the U.S. Department of Justice is closing its investigation of the California Judicial Council (CJC) initiated under Title VI of the Civil Rights Act of 1964 and its implementing regulations (Title VI). 42 U.S.C. §§ 2000d to 2000d7; 28 C.F.R. Part 42 Subsection C. We are closing this investigation based on information provided in CJC's most recent updates and subject to the qualifications set forth below. We appreciate CJC's commitment to increasing available language assistance services to provide limited English proficient (LEP) court users with meaningful access to California state courts.

Below we summarize the investigation, highlight some of the significant steps CJC has taken to resolve the matter and improve access to the court system for LEP court users, and recommend steps to address additional areas for improvement.

Background

The Federal Coordination and Compliance Section of the U.S. Department of Justice's Civil Rights Division and the United States Attorney's Office for the Central District of California (together DOJ) initiated an investigation of the Superior Court of California, Los Angeles County (LASC) and CJC under Title VI. The investigation was prompted by a complaint filed by the Legal Aid Foundation of Los Angeles that alleged national origin discrimination against LEP court users. While the complaint focused primarily on barriers encountered by LEP individuals in LASC, the structure of the California judicial branch required that we review policies and procedures that were promulgated and enforced at the state level through CJC.

In 2013, DOJ issued a letter to California Chief Justice Tani Cantil-Sakauye, the Administrative Director of the Judicial Council, and LASC's Presiding Judge, summarizing our initial observations and making eight recommendations based on the information gathered during the investigation at that time. CJC agreed to work collaboratively with DOJ to address DOJ's recommendations and to voluntarily resolve additional compliance concerns. In 2014, a working

group comprised of judges, court administrators, interpreters, and other judicial stakeholders was established to draft a comprehensive plan to expand language access services and provide LEP court users with meaningful access across the California state court system. DOJ provided technical assistance to CJC staff and the working group during the drafting of the language access plan. In 2015, CJC adopted the *Strategic Plan for Language Access in the California Courts (Strategic Plan)*.¹ The *Strategic Plan* included eight strategic goals and seventy-five recommendations that were to be implemented during three phases, based on level of priority, with the goal of full implementation by 2020.

Over the course of this investigation, CJC has taken numerous steps to improve language services for LEP court users in all California state courts and to meet the goals established in the 2015 *Strategic Plan*, including:

- Expanding access to interpreter services in all criminal and civil court proceedings in all fifty-eight trial courts;
- Establishing an Implementation Task Force to oversee implementation of the *Strategic Plan* and a permanent Language Access Subcommittee within CJC dedicated to addressing language access issues in the California state courts;
- Creating a statewide translation protocol;
- Establishing and updating an online Language Access Toolkit with resources for local courts;²
- Adopting California Rule of Court 2.850, requiring each county to designate a Language Access Representative;
- Expanding recruitment, outreach, and training of qualified interpreters; and
- Creating and implementing a statewide [language access complaint form](#).

More recently, CJC voted to establish a video remote interpreting program. Additionally, CJC staff continue to issue periodic language access surveys to the trial courts that assist with monitoring implementation of the *Strategic Plan*. CJC staff has also met with DOJ by teleconference on a biweekly or monthly basis to discuss ongoing issues for much of this investigation. CJC staff has reported substantial implementation of the *Strategic Plan* and therefore DOJ is closing this matter.³

Areas for Improvement

Ensuring that LEP individuals have meaningful access to court proceedings and operations for an entire state court system as large as California's takes time and is an ongoing process. We appreciate CJC's ongoing commitment to expanding and improving upon language services throughout the California state court system.

CJC has made tremendous progress in expanding language assistance services and serves a population in which 44% speak a non-English language at home and nearly seven million

¹ https://www.courts.ca.gov/documents/CLASP_report_060514.pdf.

² <https://www.courts.ca.gov/lap-toolkit-courts.htm>.

³ DOJ [closed its related investigation](#) of the Superior Court of California, Los Angeles County on June 19, 2020.

report speaking English “less than very well.”⁴ Given the large LEP population, there are still challenges to be addressed to ensure LEP individuals have meaningful access to the California state courts. Although we are closing this investigation, we highlight below a few areas that we recommend CJC address.

First, DOJ is concerned about the lack of translated webpages and forms on CJC and trial court websites. As we have discussed with CJC staff, we are concerned about how difficult it is for an LEP individual to navigate through English content to get to translated vital information. We do not recommend the use of error-prone machine translation resources, such as Google Translate, unless the translated content is also reviewed for errors and corrected before it is posted for the public. We have informed CJC staff about significant errors we found on multiple trial court websites because of the reliance on machine translation. These errors can create a barrier to access for LEP court users. We recommend that CJC create a model translation policy for local courts that requires that translations be reviewed and edited for accuracy. The model translation policy should also ensure LEP court users can easily navigate to vital translated trial court information, such as how to access interpreter services and translated self-help and trial court complaint forms. If a court takes reasonable steps to accurately translate vital information, it is counterproductive to then require an LEP individual to navigate through multiple English webpages, or incorrectly translated webpages, to access the translated content. We also recommend that CJC create a timeline for translation of state court forms in accordance with the 2016 Judicial Council Translation Protocol.

Second, we encourage CJC to continue to survey the trial courts to identify areas of success and improvement for delivery of language assistance services and to create a model language access plan for trial courts. The model language access plan should be consistent with Title VI and the goals of the *Strategic Plan* and will memorialize the gains made by CJC and the individual trial courts over the last several years.

Finally, we recommend that CJC and CJC staff work with trial court Language Access Representatives and legal services organizations to identify whether language assistance services are consistently provided in court programs and services that are ordered, mandated, or operated by the state courts. Failing to ensure that LEP individuals have meaningful access to such services can have devastating consequences and result in a violation of Title VI.

DOJ is available to provide CJC with technical assistance in any of the above-referenced areas.

Additional Information

This letter does not constitute a finding that CJC is in full compliance with Title VI or other federal laws, nor does it address other potential claims of discrimination on the basis of race, color, or national origin that may arise from the activities of CJC. Likewise, this letter does not constitute an admission by CJC with regard to any specific allegation reviewed in the matter, nor a finding that it is not or was not in compliance with Title VI or other federal laws.

⁴ American Community Survey, 2018 5-year estimates table S1601, available at <https://data.census.gov/cedsci/table?t=Language%20Spoken%20at%20Home&g=0400000US06&tid=ACST5Y2018.S1601&hidePreview=true>.

Please note that this letter does not affect any rights that an individual complainant may have to file a private lawsuit regarding the concerns raised in the complaint. We will retain the complaint for our records and take the information provided into account if we receive similar complaints against CJC.

Any recipients of federal funding may not intimidate, threaten, coerce, or discriminate against anyone who has acted or participated in an action to secure rights protected by Title VI or the Title VI regulations. The protection against retaliation extends to a recipient's employees who provide information or otherwise cooperate with DOJ's investigation. Any individual who alleges retaliation may file a complaint with DOJ.

Under the Freedom of Information Act, it may be necessary to release information and related correspondence and records shared by recipients and complainants upon request. If we receive such a request, we will seek to protect, to the extent provided by law, personal information that, if released, could constitute an unwarranted invasion of privacy.

Thank you for your continued cooperation in this matter. We appreciate Chief Justice Cantil-Sakauye's focus on expanding the availability of language assistance services in the California state courts and the attention CJC and CJC staff have given to this investigation. We also thank the members of the Joint Working Group for California's Language Access Plan and Language Access Plan Implementation Task Force, which included court officials and executives, interpreters, legal services attorneys, and access to justice advocates, for their commitment to creating and implementing a comprehensive language access plan. The Working Group and Task Force were instrumental in creating and implementing a workable plan to expand access to the California state courts for LEP individuals.

Dispensing justice fairly, efficiently, and accurately is a cornerstone of the judiciary. Policies and practices that deny LEP persons meaningful access to the courts undermine that cornerstone. We look forward to CJC and the Language Access Subcommittee continuing this important work to ensure that LEP court users have meaningful access to the California state courts. If you have any questions concerning this letter, please contact Anna Medina, Acting Deputy Chief, at (202) 353-3936 or Anna.Medina@usdoj.gov.

Sincerely,



Christine Stoneman
Principal Deputy Chief, performing duties as Chief
Federal Coordination and Compliance Section
Civil Rights Division

cc: Richard Park, United States Attorney's Office, Central District of California
Joann Lee, Legal Aid Foundation of Los Angeles
Ivette Peña, Superior Court of California, Los Angeles County