



U.S. Department of Justice

Civil Rights Division

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

October 4, 2021

Via Email

Mr. Gregory L. Sattizahn
State Court Administrator
South Dakota Unified Judicial System

Re: Complaint No. 171-69-7, Language Access / Interpreter Services

Dear Mr. Sattizahn:

This letter notifies you that the U.S. Department of Justice (DOJ) is closing its review of the South Dakota Unified Judicial System (UJS) 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 close the review based on the prompt actions taken by UJS, actions noted in the enclosed July 30, 2021 letter, and UJS's agreement to develop and implement related items in consultation with DOJ. I appreciate UJS's commitment to increase the availability of language assistance services and providing limited English proficient (LEP) court users with meaningful access to South Dakota state courts.

In March 2020, DOJ notified UJS that it opened a Title VI review after the Federal Coordination and Compliance Section in the Civil Rights Division received a complaint alleging that the Second Judicial Circuit (2JC) discriminated against LEP court users based on their national origin. That complaint alleged that 2JC, a subdivision of UJS, denied LEP court users meaningful access to interpreters in civil cases and proceedings. UJS received federal financial assistance from the U.S. Department of Transportation's National Highway Traffic Safety Administration, which assigned its Title VI enforcement authority to DOJ for this matter.

Resolution

After DOJ initiated this review, UJS took immediate actions to address the Title VI concerns. First, UJS introduced a bill in the South Dakota Legislature to expand access to court interpreters and translators for LEP individuals in all civil cases. That bill, adding a new section to South Dakota Codified Laws (SDCL) § 15-17-37, codified as SDCL§ 15-17-37.1,¹ was signed into law and became effective on July 1, 2021. Second, UJS secured an additional \$50,000 from the South Dakota Legislature to provide interpreters and translators in civil cases at no cost to LEP court users as required by SDCL § 15-17-37.1. Third, as detailed in the enclosed letter, UJS took actions, and committed to take additional actions, to implement SDCL § 15-17-37.1,

¹ 15-17-37.1. Interpreter or translator services—Payment, https://sdlegislature.gov/Statutes/Codified_Laws/2079065.

including updating the language access plans for all judicial circuits, appointing a language access coordinator, developing a language access complaint process, and distributing signage with notice in non-English languages that interpreter services are provided at no cost.

Building on the working relationship between our offices during this review, UJS will develop and implement four additional items in consultation with DOJ:

- A statewide language access plan to guide lower courts, judges, and court staff;
- A revised interpreter bench card for all South Dakota state courts, explaining the legal requirement to provide an interpreter at no cost in civil cases;
- Staff training materials that address Title VI and state law obligations and the language access complaint process; and
- An approach to identify and track how LEP individuals interact with state courts and present this information in the UJS annual report.

Additional Information

This letter relates only to the matter referred to above. It does not constitute a finding that UJS 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 UJS programs or activities. Likewise, this letter neither constitutes an admission by UJS with regard to any specific allegation reviewed in the matter, nor a DOJ finding that UJS is not or was not in compliance with Title VI or other federal laws.

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 UJS.

Recipients of federal financial assistance may not intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone who has either 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 review. Any individual who alleges such harassment or intimidation may file a complaint with DOJ. We would investigate such a complaint if the situation warrants.

This letter is a public document and DOJ will publish it on its public websites and will provide a copy of it to the complainant. Under the Freedom of Information Act, it may be necessary to release information, related correspondence, and records shared by recipients and individuals 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 cooperation in resolving this matter. If you have any questions regarding this letter, please contact Michael Mulé at Michael.Mule@usdoj.gov, (202) 514-4144, in the Civil Rights Division or Alison Ramsdell at Alison.Ramsdell@usdoj.gov, (605) 357-2338, in the U.S. Attorney's Office.

Sincerely,

A handwritten signature in black ink, appearing to read "Christine Stoneman", with a long horizontal flourish extending to the right.

Christine Stoneman
Chief
Federal Coordination and Compliance Section
Civil Rights Division

Enclosure

cc:

Ms. Alison Ramsdell, Assistant U.S. Attorney
Ms. Regina Morgan, Director of Civil Rights
National Highway Traffic Safety Administration
U.S. Department of Transportation



State of South Dakota Unified Judicial System



Office of the State Court Administrator

Telephone: (605) 773-3474
FAX: (605) 773-8437

500 East Capitol Avenue
Pierre, SD 57501-5070

July 30, 2021

To: Michael Mule
Michael.Mule@usdoj.gov

Alison Ramsdell
Alison.Ramsdell@usdoj.gov

From: Gregory L. Sattizahn
State Court Administrator
South Dakota Unified Judicial System

Re: Complaint No. 171-69-7 Regarding Language Access/Interpreter Services

Dear Mr. Mule and Ms. Ramsdell:

I am writing as a follow-up to the discussions over the last several months concerning interpreter and translator services provided by the South Dakota Unified Judicial System (UJS). As you are aware, those discussions began in March of 2020 when the South Dakota UJS was notified by the U.S. Department of Justice of Complaint 171-69-7 related to the provision of interpreter services for civil cases within the Second Judicial Circuit. Since that point, UJS has worked to assist you in your efforts to review that complaint by providing information about UJS policies, rules, reports, signage, language access plans, and funding related to the provision of interpreter and translator services in the UJS. As part of our response, we have simultaneously been working to proactively address issues of language access statewide in the UJS. The UJS takes any allegation that we may not be in compliance with federal law or concerns that the UJS policies and procedures could constitute national origin discrimination related to our court users with the utmost importance.

It is our understanding that the complaint related to the provision of interpreter and translator services was not based on any specific case but rather originated from the policy change in Minnehaha County concerning the payment for interpreter services in civil proceedings. To the best of our knowledge, no Limited English Proficient (LEP) individual has been denied the use of an interpreter in the Second Judicial Circuit. Prior to the change in policy, interpreters were appointed as necessary within the Second Judicial Circuit and the cost, including the cost for civil cases, were assessed to Minnehaha County. That

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Our Vision: We are stewards of an open, effective, and accessible court system, worthy of the Public's trust and confidence.

policy change and the contact from your office making the UJS aware of your concerns led the UJS to reassess the historical division of costs related to interpreter services statewide to seek clarity of this funding issue.

As part of that process not only did the UJS cooperate to provide your office with requested information, we took immediate action to attempt to clarify the responsibilities associated with interpreter and translator services. At the UJS's request, a new law was implemented effective July 1, 2021 as well as the corresponding budgetary appropriation to support the same. This was undeniably a prompt and significant response to DOJ concerns. *See* SDCL § 15-17-37.1.

You mention in your most recent correspondence that a change in law without steps to implement it and make it effective will not in and of itself ensure meaningful access for LEP individuals. That is certainly a point that we can all agree upon. I think it is important to outline the actions that UJS has taken and the changes we are committed to related to language access in the South Dakota UJS. Ideally, this will eliminate any concerns you have and this complaint may be treated as resolved.

Our commitment to those actions include the following:

House Bill 1069: The UJS introduced, lobbied and gained passage of HB 1069 during the 2021 Legislative Session. This bill amended SDCL § 15-17-37 to clarify the source of payment of interpreter or translator services in civil actions for a witness or party to a court proceeding.

General Fund Appropriation: As noted, this amendment requires a budgetary appropriation. The UJS sought and secured a sufficient general fund appropriation to implement the changes to SDCL § 15-17-37. On July 1, 2021, that appropriation became effective and those dollars are now in the UJS budget. The circuit court administrators in each of the seven judicial circuits have been advised of the purpose and availability of those funds and the coding to be utilized so the expenditure of those funds can be tracked by judicial circuit in the event additional dollars are needed as we continue to assess statewide demand on those dollars in light of the funding structure change created by the new law.

Language Access Plans: The language access plans for each of the seven judicial circuits has been updated and placed on the UJS website. Those updates reflect the change in law and make it clear that interpreter services will be provided at no cost for any civil proceeding. In addition, the UJS is in the process of adopting an overarching statewide language access plan intended to provide statewide guidance and that will be completed in the Fall of 2021. Those language access plans are available on the UJS website here: <https://uj.s.sd.gov/Resources/Interpreter.aspx>

Language Access Coordinator: The UJS has appointed a language access coordinator located in the State Court Administrator's Office to oversee language access planning, serve as a point of contact for interpreter related complaints, identify and lead training opportunities, and recommend ways the UJS can continually seek improvements related to language access. That person will meet with our circuit court administrators at least

annually to discuss any updates to the circuit language access plans, review statistics related to language use and review items related to language access.

Language Access Complaint Process: The UJS has also implemented a complaint process for individuals who have concerns related to language access or interpreter services. Information about that process is located on the UJS webpage referenced above. The UJS also had that information translated into the most commonly utilized languages in South Dakota and will continue to work to define that complaint process.

Interpreter Signage: The UJS has already updated and distributed signage throughout the state to be placed at any public entry or access point to UJS offices. That signage conveys that interpreter services are available and will be provided at no cost in the most common languages. We have also created signage related to the complaint process referenced above. A copy of the signage is attached for your reference.

Interpreter Handbook: The UJS currently has an Interpreter Handbook, originally published in 2012, and it is available in English and Spanish. That Handbook is currently being updated and will specifically include a section related to costs associated with civil proceedings. The updated Handbook will be translated into the most common languages encountered in South Dakota and be readily available to the general public via the UJS website and hard copies in all courthouses. We anticipate that will be completed in the fall of 2021.

I-speak Cards: I-speak cards have been distributed statewide as a resource for our staff to be able to identify any language need and then allow them to connect to services to assist the individual.

Bench Card: The UJS currently has a Bench Card intended as a reference for our judicial officers. That Bench Card is being updated to reflect the most current laws and practices to ensure it is helpful and efficient for our judicial officers. That will be completed in the fall of 2021.

Self-Represented Litigant Forms: The UJS is committed to continually studying the mostly commonly utilized forms in our court system and ensuring those documents are translated into the most common languages encountered in South Dakota. Some of these forms as well as advisement of rights documents are currently available in Spanish but will be updated with additional languages in the next six months and continually updated moving forward.

Interpreter Recruitment and Training: The UJS is studying plans to create recruiting opportunities for interpreters in South Dakota. As part of those efforts, the UJS plans to facilitate training and orientation programs for interested interpreters to build our base of available interpreters and encourage interpreters to consider providing services to the UJS.

Technology Innovation: The UJS is currently exploring how we can use our technology to overcome geographical challenges and expand our pool of available interpreters in our large rural state. The COVID-19 pandemic required the UJS to utilize technology

innovations more so than ever before. Consequently, this has expanded opportunities throughout the state for such services and we anticipate continued growth and development in this area.

UJS Staff Training: In the Spring of 2021, the UJS provided in-person training to our judicial officers, clerks of court and probation officers related to the new law changes and interpreter funding. Additional trainings in the form of webinars and in-person events will be planned as we expand our focus in this area.

Annual Report: Update the UJS annual report to provide language access statistics and information so that information is available and readily accessible. This update is currently in development as we build our FY 21 Annual Report.

Our goal is to convey the commitment of the UJS to ensure language access and interpreter services to those involved in the court system in South Dakota. This is demonstrated by our prompt response to the DOJ inquiry with not just a verbal commitment to clarify our processes, but with the implementation of an action plan to continually improve our delivery of interpreter services to court users. We completed a significant amount of work in this area in a short period of time. We acknowledge that this is an issue that will be constantly evolving as we respond to future trends and we strive to ensure that our South Dakota program is and remains responsive to the needs in our state.

This letter may be treated as a public document and published on the DOJ website and provided to the complainant. This letter does not constitute an admission by the UJS regarding any specific allegations reviewed by DOJ but is intended to clarify the position of the UJS and the provision of language access services within the South Dakota UJS.

If you have any questions regarding this letter please contact myself at Greg.Sattizahn@uj.s.sd.us or Jeffery Tronvold at Jeffery.Tronvold@state.sd.us.

Sincerely,



Gregory L. Sattizahn
State Court Administrator
South Dakota Unified Judicial System

Cc: Jeffery J. Tronvold, Deputy Attorney General

Enc: Interpreter Availability Poster
Interpreter Complaint Process Poster