



E-FILED
CNMI SUPREME COURT
E-filed: Jun 06 2024 02:24PM
Clerk Review: Jun 06 2024 02:25PM
Filing ID: 73321151
Case No.: ADM-2024
NoraV Borja

IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN RE THE NORTHERN MARIANA ISLANDS
JUDICIARY LANGUAGE ACCESS POLICY AND PLAN

ADMINISTRATIVE ORDER 2024-ADM-0002-RUL

ORDER ADOPTING REVISED JUDICIARY'S LANGUAGE ACCESS POLICY AND PLAN

¶ 1 This matter is before the Court on its own motion to revise the *NMI Judiciary Language Access Policy and Plan* (LAPP). The revisions aim to improve language access services, provide clarity and consistency, and ensure that the Judiciary's policies align with present-day best practices and standards for qualified interpreters and translators, trained court staff and judges, and multi-lingual signage and documents.

¶ 2 Notably, the revised LAPP presents the most recent information on our language access requirements and defines the procedure to obtain language access services offered by the Judiciary. Moreover, Section 4(d) outlines the procedure to suspend or remove a court interpreter from the Court Interpreter Registry, ensuring continued quality of language services provided. It also supplements the information in Appendix A with the Trainings and Conferences the Judiciary conducted since the launch of its LAPP in 2015, and adds Appendix B with Court Interpreter Qualifications and Requirements, and Standardized Questionnaire for Courtroom Interpreters. Finally, the revised LAPP incorporates stylistic and formatting changes to enhance its overall appearance and readability.

¶ 3 Accordingly, it is hereby ORDERED that the *Northern Mariana Islands Judicial Language Access Policy and Plan*, attached as Exhibit A, is adopted and supersedes previously adopted LAPPs to the extent of any conflicts and shall take effect immediately.

¶ 4 It is further ORDERED that members of the LAPP Committee are relieved of their duties and the Committee is dissolved.¹

SO ORDERED this 6th day of June, 2024.

/s/

ALEXANDRO C. CASTRO
Chief Justice

/s/

JOHN A. MANGLOÑA
Associate Justice

/s/

PERRY B. INOS
Associate Justice

¹ The LAPP Committee was formed as an advisory body to develop the Language Access Policy and Plan. The Committee was comprised of the NMI Judicial Branch and its stakeholders, including the CNMI Bar Association, Office of the Attorney General, Office of the Public Defender, and other entities.



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NORTHERN MARIANA ISLANDS
JUDICIARY
LANGUAGE ACCESS PLAN AND POLICY

EXHIBIT A

Effective June 6, 2024

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INTRODUCTION

The Commonwealth of the Northern Mariana Islands (“CNMI”) is home to a multicultural population that speaks a variety of languages and dialects. The 2020 census showcases the CNMI’s diversity, with significant representation from Chamorro, Carolinian, Chuukese, Filipino, Chinese, and Korean communities. Individuals who do not speak English as their primary language or have limited English communication abilities are considered to be limited English proficient (“LEP”).

Title VI of the Civil Rights Act of 1964 protects LEP persons from discrimination by ensuring that recipients of federal funds must take reasonable steps to provide meaningful access to their programs, services, and information. Although a person may not be LEP in all circumstances, such as getting around the community or engaging in everyday tasks, navigating a complex legal system may be a barrier to meaningful access. Formal court settings, difficult legal language, and the significant impact of judicial decisions are all factors that inhibit meaningful participation by LEP persons in the court system. For these reasons, it is crucial for the Judiciary to provide LEP persons with meaningful opportunities and access to important benefits and services so that one may exercise important rights, comply with applicable responsibilities, or understand other relevant information.

The diversity of the CNMI, in light of its limited resources, makes it difficult to respond to the language needs of the Judiciary’s eligible LEP population. Nevertheless, the Judiciary continues to serve LEP persons who request various services, including—but not limited to—assistance with trial court proceedings, payment for judicial services, guidance with electronic filing and service systems, and other related services. Many of the Judiciary’s eligible LEP clients are self-represented persons needing further assistance navigating the judicial system. In serving the diverse people of the CNMI, the Judiciary implements this Language Access Plan and Policy (“LAPP”) to provide timely, meaningful, and equal access to Judiciary programs, services, and information to LEP persons.

The NMI Supreme Court adopted the first LAPP on November 3, 2015, in Supreme Court Order No. 2015-ADM-0023-RUL. The policy was created by the LAPP Committee, composed of the Northern Mariana Islands Judicial Branch and its stakeholders, including the CNMI Bar Association, Office of the Attorney General, and Office of the Public Defender.

The Judiciary’s LAPP aims to: (1) provide free and meaningful access to justice for LEP persons; (2) ensure that Judiciary-related needs and responsibilities are communicated to LEP persons; and (3) maximize communication efforts between the Judiciary and its diverse community at all points of contact.

BACKGROUND

(a) Federal Law & Guidance

Title VI provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”¹ Failing to take reasonable steps to ensure meaningful access for LEP persons is a form of national origin discrimination prohibited by Title VI regulations.²

In August 2000, President William J. Clinton signed into law Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiencies*, which required that all entities receiving federal funding provide meaningful access to all programs and activities for LEP persons. In 2002, the Department of Justice issued guidance regarding Title VI’s protections pursuant to President Clinton’s executive order.

Ten years after President Clinton signed the executive order, Assistant Attorney General Thomas E. Perez of the U.S. Department of Justice Civil Rights Division issued a letter to the nation’s court systems providing greater clarity regarding language access requirements. That letter indicated that providing language assistance to LEP persons applies regardless of conflicting state or local laws. It raised a number of other instances in which access for LEP persons is vital. These include—but are not limited to—providing: (1) language assistance to non-party LEP persons where their participation or presence in a court matter is necessary; (2) court-appointed interpreters at no cost to the persons involved; (3) meaningful access for LEP persons to court operated or managed points of public contact, either inside or outside the courtroom; and (4) interpretations or translations for all operations and encounters with professionals such as court psychologists, doctors, and etcetera.

(b) Four-Factor Analysis

The Department of Justice’s 2002 guidance sought to clarify existing legal requirements for LEP persons by describing factors that should be considered in fulfilling language access responsibilities. These are the same criteria the Department of Justice will use in evaluating compliance with Title VI and its regulations.

In implementing the LAPP, the Judiciary considers:

- (1) The number or proportion of LEP individuals served or encountered in the eligible service population;

¹ 42 U.S.C. § 2000(d).

² See *Lau v. Nichols*, 414 U.S. 563, 568–69 (1974).

- (2) The frequency with which LEP individuals come in contact with the program;
- (3) The nature and importance of the program, activity, or service provided by the program; and
- (4) The resources available to the recipient.

(c) Implementation

After completing the four-factor analysis in subsection (b) and determining the appropriate language services, the Department of Justice recommends developing a language access plan. In designing the plan, five steps were recommended:

- (1) identifying LEP individuals who need language assistance;
- (2) developing language assistance measures;
- (3) training staff;
- (4) providing notice to LEP persons; and
- (5) monitoring and updating the language access plan.

The Judiciary developed this LAPP to identify the community's needs and to ensure LEP persons have meaningful access to Judiciary programs, services, and activities in compliance with Title VI, its implementing regulations, and all subsequent and relevant laws and guiding documents. In so doing, the Judiciary is mindful of the need to remain culturally and linguistically appropriate in designing and executing its LAPP.

Section 1. Definitions

(a) LAPP Coordinator

The LAPP Coordinator is appointed by the Chief Justice to oversee the implementation and annual updates of LAPP, LAPP forms, the Court Interpreter Registry Program, and the Interpreter Code of Conduct. The LAPP Coordinator supervises the LEP Coordinator and develops training programs for interpreters in accordance with Judiciary standards.

(b) LEP Coordinator

The LEP Coordinator is appointed by the Chief Justice and is under the supervision of the LAPP Coordinator. The LEP Coordinator will work with all Judiciary service providers to ensure interpreter services are provided as needed and that all forms and signage comply with Judiciary standards. The LEP Coordinator must also assist the LAPP Coordinator in the day-to-day implementation of the LAPP. The LEP Coordinator's duties include drafting, preparing, and

completing policies, procedures, reports, and other related duties as assigned.

Section 2. The Judiciary’s LEP Population Needs

The Judiciary shall gather statistics on the languages requested by the LEP population to identify current language needs on an annual basis.

An analysis was conducted based on case filings and services required in the Superior Court during calendar years 2020 through 2022. The statistics below reflect the source language and the number of cases in which that source language was requested for interpreter needs.

| LANGUAGE SERVICES PROVIDED 2020-2022 | | | | |
|---|-------------|-------------|-------------|---------------------------|
| <i>Language Needed</i> | <i>2020</i> | <i>2021</i> | <i>2022</i> | <i>Total No. of Cases</i> |
| Chinese | 406 | 396 | 669 | 1,471 |
| Tagalog | 98 | 184 | 213 | 495 |
| Chuukese | 27 | 55 | 46 | 128 |
| Korean | 24 | 68 | 32 | 124 |
| Bengali | 14 | 30 | 20 | 64 |
| Chamorro | 5 | 24 | 8 | 37 |
| Russian | 4 | 18 | 1 | 23 |
| Carolinian | 5 | 5 | 7 | 17 |
| American Sign Language | 9 | 4 | 4 | 17 |
| Japanese | | 10 | | 10 |
| Thai | | 9 | 1 | 10 |
| Marshallese | 1 | 4 | | 5 |
| Palauan | 4 | 1 | | 5 |
| Turkish | 1 | 2 | 2 | 5 |
| Pohnpeian | | 2 | 2 | 4 |
| Mongolian | 3 | | | 3 |
| Yapese | | 2 | | 2 |
| Vietnamese | | | 1 | 1 |

Section 3. Procedures

(a) Public Notice

To provide meaningful access to the courts in an appropriate manner, it is crucial to inform LEP persons of their right to language assistance.

- (1) *Signage*. Strategically placed multilingual signs or pamphlets in Judiciary facilities are a functional and effective method to inform LEP persons where and how to request language assistance. Signage is—and

will continue to be—made available to LEP persons in locations that are primary points of public contact. Mobile signs will also be included. Signage will detail information such as an LEP person’s right to an interpreter free of charge, contact numbers for the LAPP and LEP Coordinator, points of contact in the Clerk of Court offices, and other critical contact information.

- (2) *Internet.* The Judiciary website has a multilingual notice of the availability of language access services in English and non-English languages. An LEP person can directly access the multilingual notice by clicking on a list of languages on the Judiciary homepage. The notice informs the public of the right to an interpreter at no cost.

(b) In-Court Proceedings: Procedure for Providing Language Services

An interpreter is needed, if upon examination by the court:

- (1) A party or witness is unable to speak English so as to be understood directly by counsel, court, and jury; or
- (2) If a party is unable to hear, understand, speak, and/or use English sufficiently to comprehend the proceedings and to assist counsel in the conduct of the case.

Language services may be obtained via request from the LEP person, a representative, a Judiciary employee, or a non-Judiciary staff member such as a public defender or prosecuting attorney.

If there is no request for an interpreter, but it appears that an individual may have LEP needs, the judge may provide an interpreter to ensure equal access to the courts. The judge has the ultimate responsibility for authorizing the provision of an interpreter in a legal proceeding.

(c) In-Court Proceedings: Procedure for Dismissing an Interpreter’s Services

The judge has sole discretion during an in-court proceeding, or any judicial proceeding, to retain or dismiss an interpreter. If the judge dismisses the interpreter’s services, then the judge shall obtain the services of another interpreter. An interpreter’s dismissal does not automatically remove the interpreter from the Court Interpreter Registry.

(d) Obtaining Court Interpreter Services

All requests for an interpreter during a proceeding must be directed to the LEP Coordinator or the judge, who shall transmit the request

to the LEP Coordinator. The LEP Coordinator must adhere to the following steps in acquiring a court interpreter for the LEP individual:

- (1) The LEP Coordinator will refer to the Court Interpreter Registry, identifying and selecting the first available and most qualified interpreter.
- (2) If an interpreter on the Court Registry is unavailable, a telephonic interpreter service approved by the Judiciary may be contacted.
- (3) If no qualified interpreter is available, the judge may proceed in accordance with the special circumstances provision at Section 4(e).
- (4) If there is no interpreter available (either qualified or not), the judge may suspend and postpone the matter.

(e) Out of Court Procedures for Providing Language Services

When a Judiciary staff member encounters a person who may need language access services, the following steps must be complied with:

- (1) Identify the language needs. This can be determined through the LEP person's self-report or representative indicating as much.
- (2) Contact accessible, bilingual volunteer staff. Staff who are willing and able, on an as-needed basis, to assist the Judiciary by facilitating informal communication with LEP individuals may be contacted.
- (3) If there is no bilingual staff available, the LEP Coordinator may contact a qualified interpreter on the Court Registry.
- (4) If an interpreter on the Court Registry is unavailable, a telephonic interpreter service approved by the Judiciary may be contacted.
- (5) If there is no available interpreter, the LAPP Coordinator shall be contacted.

At all times, the LEP Coordinator must be contacted when an LEP person is in need of language access services.

Section 4. Language Access Resources

(a) Court Interpreter Qualifications

The Judiciary's efforts to meet the needs of its LEP client population are driven by the NMI's diversity and challenged by its relative geographic isolation.

In ensuring qualified interpreters provide meaningful and equal access for LEP persons, the NMI Supreme Court may set the standards for qualified interpreters. To be qualified, interpreters must meet the qualifications set out in Appendix B.

Applicants may additionally be asked to pass an examination on general knowledge and/or an oral examination at the request of the LAPP Coordinator. Once registered as a qualified interpreter, they must adhere to the NMI Interpreter Code of Conduct adopted by the Supreme Court.

(b) Court Interpreter Registry

The Supreme Court is responsible for approving qualified interpreters and the Court Interpreter Registry to promote the accuracy and integrity of Judiciary proceedings and to preserve meaningful access to justice. The Registry governs the assignment and use of interpreters for qualifying cases. Registered interpreters are compensated for services based on assignments coordinated through the LEP Coordinator. The Judiciary may publish the Registry.

The Supreme Court may designate the approval authority to the LAPP or LEP Coordinators, as necessary and without notice. If an applicant is denied registration as a qualified interpreter by the LAPP or LEP Coordinator, the applicant may seek reconsideration of that decision from the Supreme Court, or apply again after curing any defect in their qualifications.

(c) Employment Status

Interpreters are hired as independent contractors. They are self-employed and not considered Judiciary staff.

(d) Removal of Interpreter from the Court Interpreter Registry

- (1) *Request to Remove.* All requests to remove an interpreter from the Court Interpreter Registry (“Registry”) shall be in writing and addressed to the LAPP Coordinator. The LAPP Coordinator may also initiate such a request. The request shall specify the grounds for removal.
- (2) *Temporary Suspension.* If the request for removal raises serious concerns as to the interpreter’s qualifications or suitability to perform the duties or functions of an interpreter, then the LAPP Coordinator shall have the discretion to temporarily suspend the interpreter from the Registry. The LAPP Coordinator may remove the temporary suspension at any time while reviewing a removal request.
- (3) *Notice.* The LAPP Coordinator shall send a copy of the request for removal to the interpreter whose removal is sought along with a notice indicating that the interpreter may file a written response, addressed to the LAPP Coordinator, within thirty days.

- (4) *Timing.* After the expiration of the thirty days, the LAPP Coordinator shall determine if an investigation should be conducted into the facts and circumstances that form the basis for the removal request.
- (5) *Sanctions Without Investigation.* If an investigation is not needed, the LAPP Coordinator shall make a written recommendation to the LEP Coordinator that the interpreter should be removed from the Registry, that a lesser sanction be imposed, or that no actions should be taken on the removal request. Lesser sanctions shall include—but are not limited to—suspension from the Registry for a specific period of time, suspension until the interpreter successfully completes prescribed training, or restrictions on the types of judicial proceedings to which the interpreter may be assigned.
- (6) *Investigation.* If an investigation is necessary, the LAPP Coordinator shall appoint an individual to conduct an investigation. The investigator shall conduct a full and comprehensive investigation into the facts and circumstances that provide the basis for the removal and shall report the results of the investigation in writing, addressed to the LAPP Coordinator, and a copy provided to the interpreter. The investigator's report shall be submitted within 90 days from the date of his or her appointment.
- (7) *Response.* The interpreter shall have ten days to submit a written response to the investigator's report. The written response shall be submitted to the LAPP Coordinator.
- (8) *Disposition.* Based on the investigator's report and other documentation, the LAPP Coordinator shall determine in writing whether to recommend that the interpreter be removed from the Registry, a lesser sanction be imposed, or that no further action is required. The LAPP Coordinator's written decision is final and shall be forwarded to the interpreter and the requesting party.

(e) Special Circumstances

In exigent circumstances, such as when a needed language is rare, the LEP Coordinator cannot verify the proposed interpreter's language proficiency, or predetermined standards have not been met, the judge may determine whether the proposed interpreter is qualified to participate adequately in a court proceeding. In such cases, the judge may conduct a *voir dire* of the proposed interpreter.

If a qualified interpreter is unavailable, LEP individuals may use any bilingual court staff members to help secure an interpreter. Bilingual staff members are not authorized to interpret in a proceeding unless they are qualified, so their role is limited to assisting the court and party in obtaining an interpreter.

(f) Vital Document Translation

As described by the Federal Register: “Translation is the replacement of a written text from one language (source language) into an equivalent written text in another language (target language).”³ Materials that may be considered “vital” include consent and complaint forms, intake forms, and notice of disciplinary action, among other such documents.

The Judiciary aspires to implement the Department of Justice’s recommendations regarding the translation of vital documents. The Department of Justice recommends translating vital documents into an LEP language group if there are five percent or 1,000 persons (whichever is less) of a population that is eligible to be served or likely to be affected or encountered. Alternatively, if there are fewer than 50 persons in a language group that reaches the five percent trigger, the Judiciary need not translate vital written materials but may provide written notice of the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials.

The LAPP Coordinator is responsible for working on programs and projects which ensure that vital documents are translated into various source languages. The LEP Coordinator will work on ensuring that specific vital documents are translated and training provided to judicial officers and staff.

Services requested outside of a case with court-appointed counsel will be provided in compliance with Title VI of the Civil Rights Act of 1964. The LAPP Coordinator is responsible for developing programs that enhance services to LEP individuals who come in contact with the Judiciary.

(g) Language Access Complaints

LEP persons have the right to submit a complaint about the denial of interpreter services or issues with the language services received. The LAPP Coordinator will provide a complaint form upon request.

Section 5. Staff Training

The American Bar Association Standards for Language Access in Courts states:

Training is also necessary to dispel the myth and understanding that bilingualism is a sufficient qualification to interpret: the trained judge or court personnel understands that not all bilingual individuals have the

³ Guidance Regarding Title VI Prohibition Against National Original Discrimination Affecting LEP Persons, 67 Fed. Reg. 41,455, 41,463 (June 18, 2002).

necessary interpreting skills to work in courts and that the skills needed to interpret are extensive. This training should also provide guidance on the steps necessary to appoint a qualified interpreter and should describe the differences between interpreters and bilingual staff and the appropriate roles for each.⁴

The Judiciary recognizes the need to provide trainings for its staff to service its LEP population in a linguistically and culturally appropriate manner. In carrying out trainings, the Judiciary ensures timeliness in responding to the needs of an LEP person as well as consistency and uniformity.

The LAPP Coordinator may work with the LEP Coordinator and the Office of Human Resources to provide staff training on LAPP policies and procedures, identify LEP persons, differentiate among the various languages spoken, understand cultural differences and issues, general delivery services to LEP individuals, and other such language access-related topics.

Training for staff and interpreters will occur at least once a year and be documented by the LAPP Coordinator with copies to the Office of Human Resources.

Section 6. Compliance and Evaluation of LAPP

The LAPP Coordinator will work with the Director of Courts to complete an annual Compliance and Evaluation Report by March 31 of the subsequent year, analyzing data and trends, identifying problem areas or gaps in services, and providing a corrective action plan to address and resolve issues. Evaluation criteria may include, among other data:

- (1) Assessing the number of LEP individuals requesting court interpreter services from the Judiciary;
- (2) Assessing current language needs to determine if additional services and/or translated materials should be provided (e.g., court forms, informational brochures); and
- (3) Assessing the knowledge court staff possesses of LAPP policies and how to provide language assistance services to LEP individuals.

The LAPP Coordinator will review and update this Plan annually and make recommendations for improvements based on the review.

⁴ American Bar Association Standing Committee on Legal Aid and Indigent Defendants, STANDARDS FOR LANGUAGE ACCESS IN COURTS 116 (February 2012).

Section 7. Appendices

The Supreme Court may maintain Appendices and Forms and may modify them at any time, without notice. The LEP and LAPP Coordinators may amend the Forms and Appendices as needed, with approval by the Supreme Court.

APPENDIX A — LAPP TRAININGS AND CONFERENCES

Subsequent to the publication of its Language Access Policy and Plan in 2015, the NMI Judiciary has conducted a series of training sessions and conferences. This comprehensive list undergoes a thorough review and revision on an annual basis to ensure its accuracy.

- May 4–6, 2015 — Pacific Judicial Council language access training for judges and court interpreters in Koror, Palau.
- November 24, 2015 — Professional development training for all Judiciary staff on language access in Saipan, NMI.
- November 21–22, 2016 — A Judiciary conference on strategic planning covering aspects of language access held in Saipan, NMI.
- November 4–6, 2019 — Pacific Judicial Council advanced court interpreter training in Pohnpei, Federated States of Micronesia.
- January 13–17, 2020 — Language access training by Director Debi Tulang-De Silva out of the Hawai'i Judiciary's Office on Equality and Access to Courts. A number of stakeholders were trained, including justices, judges, Judiciary staff, members of the Bar Association, and other government agencies. The trainings were held at various sites throughout Saipan, NMI.
- March 16, 2020 — Language access training for Judiciary staff by Judiciary General Counsel Hyun Jae Lee.
- August 21, 2020 — Judiciary Language Access Program Training for Court Interpreters by Judiciary General Counsel Hyun Jae Lee and Director of Courts Sonia A. Camacho.
- January 29, 2021 — Judiciary Language Access Program Training for Judiciary Staff, Office of Attorney General, Office of the Public Defender, and other entities by Judiciary General Counsel Hyun Jae Lee.
- March 2, 2021 — Language access training for Judiciary staff by Judiciary Deputy General Counsel Matthew J. Brown.
- September 23 and October 1, 2021 — Judiciary Language Access Program Training for Court Interpreters by Judiciary General Counsel Hyun Jae Lee and Director of Courts Sonia A. Camacho.
- June 17, 2022 — Language access training for Judiciary staff by Judiciary General Counsel Hyun Jae Lee.
- June 24, 2022 — Virtual Language access training for Judiciary staff by Judiciary Deputy General Counsel Matthew J. Brown.
- December 7, 2022 — Language access training for Judiciary staff by Judiciary Deputy General Counsel Matthew J. Brown.
December 20, 2022 — Judiciary Language Access Program

Training for Court Interpreters by Judiciary General Counsel Hyun Jae Lee and Director of Courts Sonia A. Camacho.

- June 9, 2023 — Language access training for Judiciary staff by Judiciary Deputy General Counsel Matthew J. Brown.
- August 10, 2023 — Language access training for Judiciary staff by Judiciary General Counsel Hyun Jae Lee.
- October 20, 2023 — Language access training for Judiciary staff by Judiciary Deputy General Counsel Matthew J. Brown.

APPENDIX B—COURT INTERPRETER QUALIFICATION

The Judiciary determines the standards for qualified interpreters based on the recommendations from the LAPP Committee, submitted in October 2020. The Supreme Court adopted two documents based upon these recommendations, included in this Appendix:

- Court Interpreter and Translator Qualifications and Requirements
- Judiciary Standardized Questionnaire for Courtroom Interpreters