



Center on Court Access
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Access Brief: Language Access & Self-Represented Litigants

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A Multi-Faceted Access Problem

The barriers to access faced by self-represented limited English proficiency (LEP) litigants are far greater than those that must be overcome by litigants with only one of those two sets of burdens. It is hard enough for self-represented litigants to navigate a lawyer-oriented system, and LEP litigants to navigate an English-speaking system. Imagine the day-to-day complexities and anxieties of walking into a courthouse with both of these challenges – neither English capacity nor a legal advisor – and consider the array of rules, policies, procedures, practices, forms, logistics, cultural differences and so much more that these litigants have to figure out on their own. If self-represented LEP litigants run into a language barrier, it is reasonable to assume that their lawyer will take responsibility for solving it. Self-represented LEP litigants are left to fend for themselves and not able to explain their problems or needs without assistance.

The Core Concept:
Addressing the access needs of self-represented litigants with language services needs.

In this brief, LEP litigants refer to individuals with a broad array of language access issues such as deaf and hard of hearing litigants, those with language processing disorders, and those with cognitive disabilities. Conditions such as Post Traumatic Stress Disorder (PTSD) also can affect the ability to understand language. These complex language access issues demand a multi-pronged, integrative approach by courts and communities to ensure access to justice for LEP litigants. The demand is only heightened when lack of legal representation is also an issue.

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A Roadmap for Improvement

In 2012, nearly 300 judicial leaders from 49 states, 3 territories, and the District of Columbia attended the National Summit on Language Access in the Courts to discuss language access issues and develop action plans “to ensure meaningful access to timely, quality language assistance to LEP persons who come into contact with their states’ courts.”¹ A set of nine action steps for improving language access emerged from the Summit deliberations. This brief summarizes each action step and considers its application specifically for the LEP subpopulation of self-represented litigants. The intent is to ensure that the special needs of LEP self-represented litigants are considered throughout the *entire* language access planning process rather than trying to address their needs on an ad hoc basis.

Step 1: Identifying the Need for Language Assistance

This step encourages states to “establish data collection and analysis procedures to assist with the identification of need for language assistance at all points of contact.”² This effort can be expanded to include information regarding the LEP’s representation status and legal assistance needs. Collecting the information about LEP and representation status together increases efficiency and provides more meaningful information regarding the scope of the problems facing these litigants. Empirical information allows courts to understand what is most needed and develop strategies to address the needs in an integrated way at both the individual and policy levels.

As a first step in this direction, the National Center for State Courts and the Conference of State Court Administrators’ Court Statistics Committee recently developed definitions and counting rules for the reporting of cases involving self-represented litigants and those involving LEP litigants. Their final report offered an example of how this information could be helpful in making policy and resource decisions: “Similarly, knowing that a significant number of SRLs are limited in their English proficiency may lead to a decision to offer self-help resources in specific languages or may drive a decision to offer culturally specific outreach and education programs.”³ The definitions and rules were subsequently adopted by both the Conference of Chief Justices and the Conference of State Court Administrators.⁴

In addition to collecting data on litigants, courts should review county-wide and statewide demographic data to identify potential language access needs.⁵ The demographic data may provide insights regarding the frequency with which interpreters in various languages will be needed. This kind of information may be helpful in recruiting and training interpreters and bilingual staff who are skilled in languages most common to the litigants accessing the court.

Step 2: Establishing and Maintaining Oversight

This step calls on states to “establish oversight over language access programs through the development of a state or district language access plan, creation of an oversight body, and/or creation of a language access coordinator position.”⁶ The plan should reflect the process for identifying self-represented LEP litigants, services available to the litigants,

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training for judges and court staff regarding self-represented LEP litigant issues, procedures for notifying self-represented LEP litigants of available services, and processes for monitoring and evaluating the services.⁷ The plan should also identify who is in charge of implementation, any stakeholders and partners involved in development and oversight, timelines, objectives, milestones, needed staff and funding resources, and potential problems and strategies to address them.⁸

Asking stakeholders such as advocacy organizations and community-based groups that serve “refugee” populations to provide input at the development stage and/or comments once the plan has been drafted will help ensure the plan incorporates available community resources. Coordinating with community stakeholders also helps ensure that these individuals and groups realize a plan is in place so they can better serve their clients and that information provided by all stakeholders is consistent and helpful rather than confusing or contradictory.

Oversight bodies should include representatives knowledgeable in both language access and self-representation issues. If existing committees already address these issues separately, the committees should provide liaisons to each other to ensure coordination and efficiency in addressing overlapping problems and resource needs facing LEP self-represented litigants.

Step 3: Implementing Monitoring Procedures

This step calls for implementing “procedures for monitoring and evaluating language assistance services.”⁹ The monitoring procedures should

include a review of assistance targeted specifically to the LEP self-represented litigant population. Because of the special needs of this population, services may be necessary in areas such as information about the U. S. legal system and court processes, cultural differences, the courtroom experience, and complying with orders. Monitoring the provision of services is particularly important for this population because self-represented litigants have no attorneys to help address barriers and intercede when required language access services are inadequately provided.

Step 4: Training and Educating Court Staff and Stakeholders

Step 4 reinforces the importance of establishing “programs to train courts, justice partners, and stakeholders on language access services, requirements, and mandates.”¹⁰ Training programs and materials have been developed separately for addressing LEP and self-represented litigant issues.¹¹ It is important to ensure that the issues facing LEP self-represented litigants are included in both sets of education and training resources and events. Judges and court staff need education about, for example, identifying individuals in need of language access services, appropriately assisting LEP self-represented litigants with their cases, and cultural differences that may affect an LEP self-represented litigant’s understanding and behavior.

Education for other stakeholders such as advocacy organizations and community-based groups who assist LEP self-represented litigants is also critical. LEP self-represented litigants often turn to these community stakeholders first when seeking legal assistance; it is

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important that the stakeholders are familiar with the court's language access plan so they know how best to help their clients find the legal assistance needed.

Step 5: Training and Certifying Interpreters

This step recommends developing “procedures to enhance the availability of qualified interpreters and bilingual specialists through recruitment, training, credentialing, and utilization efforts.”¹² Interpreters likely will work with self-represented litigants at various points in the court process. Thus it is important for state training and credentialing programs for court interpreters to include guidance on the topic of the provision of legal advice versus legal information. This is also the case for training bilingual court staff who may be called upon for assistance outside of the courtroom. SelfHelpSupport.org offers several resources on this topic.¹³ To make it easier to identify interpreters who are knowledgeable about self-represented issues, states could develop a designation for interpreters who have received additional training on the topic.

Step 6: Enhancing Collaboration and Information Sharing

Step 6 calls for establishing “procedures to enhance the sharing of information and resources on national and regional levels.”¹⁴ Such information might include training materials, interpreter policies, and signage and other materials to inform litigants about court processes. Courts may be able to develop some of these materials by working with other organizations and groups such as the American Bar Association, state Access to Justice Commissions, local bar associations, university

language departments and law schools, and community organizations.

Many states also are working on translating forms. Providing translated forms, particularly in vital areas such as domestic violence, is critical for ensuring access to justice for the LEP self-represented litigant. Translation is a complex issue for this population because litigants may have very different levels of abilities from illiterate to highly functional. Before forms are translated, it is important to review them for plain language and readability level.¹⁵ Sharing translated forms across jurisdictions to serve as templates that can be customized is one way to reduce the costs associated with providing forms in many languages.

Step 7: Utilizing Remote Interpreting Technology

Step 7 encourages states to “utilize remote interpreting technology to fulfill LEP needs and ensure quality services.”¹⁶ Technology has long been at the forefront of assisting self-represented litigants.¹⁷ Online information, forms and document assembly programs, video technology, and phone self-help lines are a few examples. These same technologies can be effective in working with the LEP self-represented litigant population as well.

Many states are developing and implementing remote interpretation programs via telephonic or video conferencing. One possibility is to expand application of these programs to provide legal help in conjunction with interpretation services to meet the needs of LEP self-represented litigants. States could explore, for example, the potential of developing a

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protocol that sets forth the conditions under which a lawyer could provide *virtual* pro bono legal assistance (and a law student could gain supervised practical experience).

Step 8: Ensuring Compliance with Legal Requirements

Step 8 identified courts' responsibility to "amend procedural rules to ensure compliance with legal requirements."¹⁸ Legal requirements to provide interpreters come from constitutional protections, state statutes, and from the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Executive Order 12250, Executive Order 13166, Omnibus Crime Control and Safe Streets Act of 1968, and the Court Interpreters Act.¹⁹ These requirements may also affect the provision of interpreter services for self-help programs that serve LEP self-represented litigants.

As procedural rules are amended to ensure compliance with legal requirements, courts, attorneys and other advocates should also consider ways to simplify rules and processes in general to better serve LEP self-represented litigants and all court users.

Step 9: Exploring Strategies to Obtain Funding

The last step encourages states to "develop and implement strategies to secure short-term and long-term funding for language access services."²⁰ Funding is always a critical component of ensuring adequate services for both LEP and self-represented litigants. To develop a funding strategy, courts need to return to Step 1 and gather data to demonstrate the nature and extent of the need for services. In addition, this is where

partnerships and collaborations as discussed in Step 6 might also be helpful. Reaching out to the community to gain public support for and help draw attention to needed services may help convince county and state funders to provide support. In addition, many community organizations may be familiar with local foundations willing to support services for specific populations (e.g., immigrants, elderly, disabled individuals). They may also be able to help document the number of individuals in their communities who would seek legal help if they knew how to do so—providing additional information on unmet legal services needs.

Moving Forward

As demonstrated by the Conference of State Court Administrators' white papers on language access and self-represented litigation issues, state court leaders have long recognized and sought to remedy access challenges for LEP and self-represented litigants.²¹ The Language Access Summit and its resulting *A National Call to Action* are just the latest examples of state court leaders' commitment to addressing the issues these populations face.

The roadmap presented in *A National Call to Action* and summarized here provides courts with a systematic plan for improving access for LEP litigants, including many of whom are self-represented. Because many state and local jurisdictions already have implemented various steps in the plan, the plan serves as a guide for jurisdictions to assess the status of their current efforts—what is already in place and what still needs to be done. As court leaders review their efforts to address LEP self-represented litigants, they should also look to their colleagues across the country for strategies that have worked in

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other jurisdictions (see Step 6). There are many examples of these; the following are just a few:

- The Alaska Court System has a family law self-help center website and helpline. Information about the resources on the website and the helpline is provided in several languages.²² In addition, they provide videos about the domestic violence protective order process in Spanish and Yup'ik and several videos on topics in divorce and custody cases in Spanish and Tagalog.²³ Alaska also uses bilingual language assistants in the court to provide customer service in other departments.²⁴ The language assistants receive special training to handle situations in which self-represented litigants ask for legal advice. Alaska recommends identifying bilingual staff who have been trained with name tags so members of the public know who can help them in their native language. Circulating the list of trained bilingual staff to all court staff is also recommended.
- The Judicial Branch of California has an online self-help center available in several languages.²⁵ California also has several other resources for self-represented litigants, such as videos on requesting and responding to a domestic violence restraining order, that are available in several languages.²⁶ California's Justice Corps Program trains college students to assist self-help and legal aid staff in providing services, often in the self-represented litigant's own language.²⁷ Because the program focuses on issues of self-representation and language access needs, litigants with both language and representation issues have a resource to turn to for legal assistance.
- As part of its Binational Justice Project, the Superior Court of Imperial County in California has an agreement with the Mexican consulate to promote the court's self-help program and train consular staff to help Mexican citizens with Imperial Court family law matters. Mexican law students devote a semester to the court's Access Center, helping self-represented family court litigants. "The Access Center's Mexican partners help alleviate the confusion caused by numerous differences between the U.S. legal system and that of Mexico, where there's no jury system, cases are conducted primarily on written pleadings, and grandparents may be ordered to pay child support."²⁸
- With funding from the State Justice Institute, the Connecticut Judicial Branch in partnership with the New Haven Legal Aid Assistance Association, created two videos to help self-represented litigants with divorce cases (approximately 85% of which involved at least one self-represented party in 2010-2011).²⁹ The videos are narrated in English, Spanish, and Polish languages.³⁰
- In Fayette County, Kentucky, a pilot project provides 24/7 access to an interpreter for petitions related to domestic violence. Petitioners complete a bilingual form in their native language which is translated by the interpreter. The interpreter completes the official legal form in English and files it with the court. Interpreters also translate the judge's orders and instructions, as needed, into the petitioner's native language.³¹
- The Minnesota Judicial Branch's online Self Help Center includes a "language links" tab that takes the user to a separate page to

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obtain translated court forms and other legal resources in various languages.³²

- In Minneapolis, Minnesota, the nonprofit Call for Justice serves as a liaison to connect low-income individuals with legal resources already available in Minnesota. As a result of working with the United Way 2-1-1 and others, referrals for legal assistance have increased significantly. Among its many initiatives, Call for Justice created a list of pro bono interpreters and translators in Minnesota who can assist with referrals. The list includes 23 persons representing 13 languages.³³
- The Supreme Court of Ohio, with funding from the Ohio State Bar Foundation, translated 27 common court forms into 5 major languages. The translated forms cover a wide range of topics from “general information about domestic violence protection orders to appointing a minor’s guardian to a defendant’s waiver of a jury trial.”³⁴ The forms are available on the Supreme Court’s website.

Many other states also have similar resources and are exploring the use of more innovative approaches such as using skype to reach rural litigants. The NCSC’s website has links to states’ self-representation resources as well as to information on language access services.³⁵ In addition, websites such as those of the Legal Services Corporation (<http://www.lsc.gov/>); the Library of Congress Global Legal Information Network, providing information on laws and legal materials from jurisdictions throughout the world (<http://www.loc.gov/lawweb/servlet/Glic?home>); the NCSC’s Center on Court Access to Justice for All (www.ncsc.org/atj); and the Self-Represented Litigation Network

(<http://www.selfhelpsupport.org/>) offer a variety of resources to help with planning and examples of programs states can adapt for their own use.

Endnotes

¹ See p. i in National Center for State Courts. (2013). A national call to action. Williamsburg, VA: Author (available <http://www.ncsc.org/services-and-experts/areas-of-expertise/language-access/~media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Language%20Access/Call-to-Action.ashx>).

² See p. 19 in National Center for State Courts (2013) at endnote 1. Examples of the kinds of information to collect and strategies for collecting it are offered on pp. 19-21.

³ See p. 8 in National Center for State Courts. (2013, December). *Developing standardized definitions and counting rules for cases with self-represented litigants--final report*. Williamsburg, VA: Author (available <http://www.courtstatistics.org/other-pages/~media/microsites/files/csp/other%20pages/srl%20project%20%20final%20report%2021913.ashx>).

⁴ Conference of Chief Justices and Conference of State Court Administrators. (2013). *Resolution 1 In support of state counts of cases with self-represented litigants and cases with interpreters*. Williamsburg, VA: National Center for State Courts (available <http://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/01292014-Support-State-Counts-Cases-Self-Represented-Litigants-Cases-Interpreters.ashx>).

⁵ National Center for State Courts (2013) at endnote 1, p. 19.

⁶ National Center for State Courts (2013) at endnote 1, p. 18.

⁷ National Center for State Courts (2013) at endnote 1, p. 23.

⁸ National Center for State Courts (2013) at endnote 1, p. 23.

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⁹ National Center for State Courts (2013) at endnote 1, p.25.

¹⁰ See p. 27 in National Center for State Courts (2013) at endnote 1, p. 27.

¹¹ For information on education and training resources for self-represented litigants, see the Self-Represented Litigation Network's www.selfhelpsupport.org and the NCSC's Center on Court Access to Justice for All's Curriculum page at <http://www.ncsc.org/microsites/access-to-justice/home/Curriculum.aspx>. For information on education and training resources for LEP issues, see the NCSC's Language Access Services Section (LASS) at <http://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access/About-us.aspx>.

¹² National Center for State Courts (2013) at endnote 1, p.30.

¹³ See Library, Education and Training, Curriculum, Resources at www.selfhelpsupport.org.

¹⁴ National Center for State Courts (2013) at endnote 1, p. 33.

¹⁵ For more information on developing user friendly forms, see *Access Brief 2: Forms and Document Assembly* available at <http://ncsc.contentdm.oclc.org/utills/getfile/collection/accessfair/id/264/filename/265.pdf>.

¹⁶ National Center for State Courts (2013) at endnote 1, p. 35.

¹⁷ For examples of how courts are using <http://cdm16501.contentdm.oclc.org/utills/getfile/collection/accessfair/id/263/filename/264.pdf>.

¹⁸ National Center for State Courts (2013) at endnote 1, p. 38.

¹⁹ Title VI of the Civil Rights Act of 1964, 42 U.S.C §2000d, et seq. (Title VI). Omnibus Crime Control and Safe Streets Act of 1968 (Pub. L. 90-351, 82 Stat. 197, 42 U.S.C. § 3711). For a description of the legal requirements, see pp. 38-39 in National Center for State Courts (2013) at endnote 1.

²⁰ National Center for State Courts (2013) at endnote 1, p. 40.

²¹ Conference of State Court Administrators. (2007). *White paper on court interpretation: Fundamental to access to justice*. Williamsburg, VA: National Center for State Courts (available at <http://cosca.ncsc.org/~media/Microsites/Files/COSCA/Policy%20Papers/CourtInterpretation-FundamentalToAccessToJustice.ashx>).

Conference of State Court Administrators. (2000). *Position paper on self-represented litigation*. Williamsburg, VA: National Center for State Courts (available at <http://cosca.ncsc.org/~media/Microsites/Files/COSCA/Policy%20Papers/selfreplitigation.ashx>).

²² See Alaska Court System, Self-Help Center: Family Law website at <http://courts.alaska.gov/selfhelp.htm>.

²³ See Alaska Court System, Self-Help Center: Family Law website at <http://courts.alaska.gov/shcabout.htm#videos>.

²⁴ The information about Alaska's bilingual assistants, training, and recommendations for identifying bilingual staff received from S. Marz (personal communication, March 12, 2014).

²⁵ See California Courts, The Judicial Branch of California, Online Self-Help Center website at <http://www.courts.ca.gov/selfhelp.htm>.

²⁶ Judicial Council of California. (2014, February). *Factsheet: Programs for Self-Represented Litigants*. San Francisco: California Administrative Office of the Courts (available at <http://www.courts.ca.gov/documents/proper.pdf>).

²⁷ See California Courts, The JusticeCorps Program website: <http://www.courts.ca.gov/justicecorps.htm>,

²⁸ Superior Court of Imperial County. (n.d.). Binational Justice Project. Imperial County, CA: Author (available <http://www.courts.ca.gov/documents/imperial-man.pdf>),

²⁹ See ABA Access to Justice Blog, Access to Justice Headlines – October 21, 2013 at

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<http://abaatj.wordpress.com/2013/10/21/access-to-justice-headlines-october-21-2013/>.

³⁰ The videos are available on the State of Connecticut Judicial Branch, Self-Help Section at <http://jud.ct.gov/selfhelp.htm>.

³¹ E. Dimeny (personal communication, March 13, 2014).

³² See Minnesota Judicial Branch, Self Help Center website at <http://www.mncourts.gov/selfhelp/?page=324>.

³³ See Ellen Krug's December 15, 2013 post "Something Out of Nothing: Leveraging Ideas to Open Access " on Richard Zorza's Access to Justice Blog, available <http://accesstojustice.net/2013/12/15/the-story-of-call-for-justice-leveraging-online-legal-information-the-211-system-and-beyond/>.

http://www.supremecourt.ohio.gov/PIO/news/2010/formsTranslation_021910.asp.

³⁵ For information on state self-representation resources, see

<http://www.ncsc.org/Topics/Access-and-Fairness/Self-Representation/State-Links.aspx>.

For information on state language access services, see

<http://www.ncsc.org/Topics/Access-and-Fairness/Language-Access/State-Links.aspx>.

³⁴ See *Feb. 19, 2010: Translation Project Expands Access to Court Forms on the Supreme Court of Ohio and the Ohio Judicial System* website at