

**BEFORE THE 2007 JUDICIAL COUNCIL OF GUAM
RESOLUTION NO. JC 07-014**

**RELATIVE TO RATIFICATION OF LIMITED ENGLISH PROFICIENCY POLICY OF
THE JUDICIARY OF GUAM**

WHEREAS, under Title VI of the Civil Rights Act requires that persons of Limited English Proficiency have Equal Access to Justice under Title 42 United States Code, and

WHEREAS, the Judiciary of Guam's Court Programs Administrator has issued a Language Assistance Policy for Persons Who Are Limited Proficiency (Policy), a copy of which is attached hereto as Exhibit "A;" and

WHEREAS, the Limited English Proficiency Policy is intended to provide meaningful access to program services and information to limited English populations served by the Judiciary are identified and targeted;

NOW THEREFORE BE IT RESOLVED, that the Judicial Council hereby ratifies the Policy for the Judiciary, as drafted by the Court Programs Administration Office.

DULY ADOPTED this 30th day of August, 2007 at a duly noticed meeting of the Judicial Council of Guam.



ROBERT J. TORRES, Acting Chairman

Date: 9/20/07

ATTEST:



JOLEEN F. RESPICIO, Secretary

**LANGUAGE ASSISTANCE POLICY
FOR PERSONS WHO ARE
LIMITED ENGLISH PROFICIENT**

Issued July 16, 2007

I. DEFINITIONS

- A. Limited English Proficiency – A person with limited English proficiency (LEP) does not speak English as their primary language, and has a limited ability to read, write, speak, or understand English. Many LEP persons are in the process of learning English and may read, write, speak, and/or understand some English, but not proficiently. LEP status may be context-specific. An individual may have sufficient English language skills to communicate basic information (such as name, address, etc.), but may not have sufficient skills to communicate detailed information in English (e.g., medical information, eyewitness accounts, information elicited in an interrogation, etc.).
- B. Primary Language – An individual's native tongue or the language in which an individual most effectively communicates.
- C. Interpretation – The act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.
- D. Translation – The replacement of written text from one language (source language) into an equivalent written text in another language (target language).
- E. Bilingual – Refers to the ability to use two languages proficiently.
- F. Judiciary of Guam Interpreter Listing – A list of on-call interpreters maintained by the Clerks of Court at the Superior and Supreme Courts. These interpreters are remunerated for service.
- G. LEP Coordinator – Limited English Proficiency (LEP) Coordinators are the Clerks of Court of Superior and Supreme Courts.

II. INTENT

The intent of this policy is to guide Judiciary of Guam personnel in providing meaningful access to programs, services, and/or information to persons who are Limited English Proficient (LEP) to ensure maximum communication between the Judiciary and all members of our community,

and further, to ensure compliance with Title VI of the Civil Rights Act of 1964 by providing equal access to our programs, services and information.

III. BACKGROUND

The Judiciary of Guam recognizes the importance of accurate communications between its personnel and the communities they serve. Language barriers can impede effective and accurate communication in a variety of ways. It can put cases and lives at risk by impeding communications with persons who are LEP, such as victims, witnesses, alleged perpetrators and community members, and can present the Judiciary of Guam with safety, evidentiary, and ethical challenges. Language barriers can inhibit or prohibit individuals who are LEP from accessing and/or understanding important rights, complying with the law, and receiving meaningful access to programs, services and information provided by the Judiciary.

Guam's population as reported in the U.S. Census Bureau, 2000 Guam Demographic Profile, is 154,805. Guam is the gateway to the United States from Asia and neighboring Pacific islands, and as such, is a "melting pot" of cultures. Guam has two official recognized languages for conducting business: English and native Chamorro. Although English is the primary language on Guam, other languages spoken on Guam include Chamorro, Filipino, Korean, Japanese, Chinese, Chuukese, Kosraean, Pohnpeian, Yapese, Palauan, Vietnamese and sign. The most significant population increase reported by the U.S. Census Bureau is that of the Chuukese population, from 0.1% in 1980 to 4% of Guam's population in 2000, a 40-fold increase.

In addition, Guam receives over 1 million tourists each year. According to the Guam Visitors Bureau, tourist arrivals in 2005 were reported at 1,227,587, and 1,211,674 tourist arrivals in 2006.

Guam has a limited population base and is geographically isolated, located about eight (8) hours by air from the island state of Hawaii, and an additional five (5) hours by air from Hawaii to the continental United States (West coast). According to Continental Airlines, Guam is located approximately 6,600 miles from San Diego, California. Therefore, interpreters and translators for certain languages may be unavailable or extremely limited.

Many of our citizens, as well as some tourists, are serviced by the Judiciary. Some clients provide their own interpreters as an alternative to the court's use of interpreters or bilingual employees. Persons of limited English proficiency must occasionally rely on their minor children to

interpret for them. On occasion, clients may call upon neighbors or even strangers they encounter to act as interpreters or translators.

In light of these circumstances, it is sometimes difficult to ensure equal access to justice under Title VI of the Civil Rights Act of 1964. Untrained "interpreters" are often unable to understand the concepts or legal terminology he or she is being asked to interpret or translate.

Federal law prohibits national origin discrimination and requires federally assisted law enforcement agencies such as the Judiciary of Guam to take reasonable steps to provide meaningful access to programs, services and information to individuals who are LEP.

The Judiciary of Guam's Language Assistance Policy for Persons who are LEP is consistent with Title VI of the Civil Rights Act of 1964, which states:

"No 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."

After a U.S. Supreme Court ruling, Congress redefined the Title VI Act in 1997 that holds the entire organization who is a recipient of federal funds as responsible if a discrimination complaint is filed, and not just the specific program under which the complaint was filed.

Title VI of the Civil Rights Act of 1964 prohibits:

- A. Providing different services to individuals as it relates to race, color, and national origin.
- B. Denying the opportunity to participate as a member of a planning or advisory body, ensuring adequate representation.
- C. Selecting the location of a facility with the purpose or effect of excluding individuals to avoid excluding individuals based on race, color, or national origin.

IV. POLICY STATEMENT

This policy was developed to provide timely, meaningful access to all individuals who require services from the Judiciary of Guam, regardless of race, color, national origin, or limited capability to speak, read or understand the English language.

To the greatest extent practical and reasonable (see section IV below), the Judiciary of Guam will strive to meet the needs of persons with LEP by ensuring the highest quality of language assistance services are available

within our limited resources. However, an interpreter for a specific foreign language may not be available on Guam due to our limited population base and geographic isolation.

Judiciary employees will inform members of the public that language assistance services are available free of charge to LEP individuals. All Judiciary of Guam personnel shall coordinate language assistance services for individuals who are LEP through the Judiciary's LEP Coordinators, the Clerks of Court for the Superior Court and Supreme Court, or designated alternates. These individuals are authorized to activate interpreters and/or translators for this purpose.

V. FOUR-FACTOR ANALYSIS

The Office of Civil Rights (OCR) recommended a four-factor analysis be conducted to determine reasonable steps in implementing our LEP policy. These factors are:

1. The number or proportion of LEP persons served or encountered in the eligible service population.
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. (Rank activities or services based on level of importance; reasonableness.)
4. The resources available to the recipient.

A four-factor analysis was conducted based on case filings and services required in the Superior Court of Guam during calendar years 2004, 2005 and 2006.

In 2004, 10,625 cases were filed, of which 589 cases or 6% required interpreter services for a total annual cost of \$19,987.85. The composition of interpreter services required by language, number of cases and corresponding costs are shown below in descending order.

Calendar Year 2004		
<i>Language</i>	<i># Cases</i>	<i>Total Cost</i>
Chuukese	486	\$ 15,625.00
Tagalog	34	1,518.75
Chinese	26	1,406.25
Korean	21	575.00
Sign Language	8	306.25
Vietnamese	6	220.00
Yapese	6	143.75
Undetermined	2	192.85

Grand Total:	589	\$ 19,987.85
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In 2005, 9,906 cases were filed, of which 762 cases or 8% required interpreter services for an annual cost of \$19,990.50. The composition of interpreter services required by language, number of cases and corresponding costs are shown below in descending order.

Calendar Year 2005		
<i>Language</i>	<i># Cases</i>	<i>Total Cost</i>
Chuukese	568	\$ 14,142.50
Chinese	89	2,725.00
Tagalog	51	1,431.25
Korean	25	625.00
Yapese	15	393.75
Undetermined	9	541.75
Vietnamese	3	106.25
Palauan	2	25.00
Grand Total:	762	\$ 19,990.50

In 2006, 9,906 cases were filed, of which 1,280 cases or 13% required interpreter services for an annual cost of \$34,214.50. The composition of interpreter services required by language, number of cases and corresponding costs are shown below in descending order.

Calendar Year 2006		
<i>Language</i>	<i># Cases</i>	<i>Total Cost</i>
Chuukese	1,030	\$ 23,731.25
Korean	74	2,156.25
Chinese	61	1,787.50
Tagalog	60	1,912.75
Yapese	20	462.50
Vietnamese	16	581.25
Palauan	8	200.00
Japanese	6	193.75
Undetermined	4	3,170.50
Chamorro	1	18.75
Grand Total:	1,280	\$ 34,214.50

Although case filings in 2005 and 2006 decreased slightly from 2004, the number of cases that required interpreter services increased. Based on this increase, vital documents that concern rights and responsibilities of a person must be translated in order to meet OCR's Safe Harbor Provision, which qualifies that if 5% or 1,000 (whichever is less) of the service population is LEP, vital documents must be translated. The Judiciary of Guam will work with the respective Consulate offices or independent

translators to meet OCR's Safe Harbor Provision. Presently, the Judiciary is also exploring the development of a certified translator program with the University of Guam.

The Judiciary of Guam receives local appropriations to pay for interpreter services for defendants who are indigent and for which counsel is provided for under the 6th Amendment, as well as for victims who require interpreter services. In both instances, there must be a case filed in court in order for payments to be authorized under this indigent defense account.

Services requested beyond this scope will be based largely upon the availability of local appropriations, as well as the availability of the specific language in which an interpreter or translator is required.

VI. PROCEDURES

The following procedures are established to guide personnel in providing services to persons who are LEP.

A. Identification of persons who are LEP in need of language assistance

To the greatest extent possible, employees should attempt to ascertain what language a LEP individual is speaking in order to provide adequate services. If you are unsure about the language being spoken, please contact your supervisor or division head. The supervisor or division head can coordinate with the LEP Coordinators (Clerks of Court, Superior and Supreme Courts) to obtain language assistance services as quickly as possible.

During an emergency situation, such as threatening phone calls or during emergencies, employees who are unable to determine the language being spoken by a LEP person should refer customers, clients, and/or phone calls to their immediate supervisor and/or division head. If it is a phone call, the employee should remain on the line until their supervisor or division head answers the call. In the event the employee's supervisor cannot determine the language of the LEP individual, he/she should immediately request language assistance services from the LEP Coordinator(s). If an interpreter is not on court grounds, all reasonable attempts will be made to contact an interpreter via telephone in order to effectively respond to the emergency situation.

B. **Notice.** Signs will be posted at various Court locations, such as the Intake Section of Courts and Ministerial Division, Client Services and Family Counseling Division, Probation Services Division, and Marshals Division to inform potential LEP persons that language assistance services can be made available in various languages. Posted signs should provide detail information such as point of contacts in the Clerks of Court offices and alternates, telephone number, office number, website information, and how to acquire services. In addition, LEP information will be posted on the Judiciary of Guam's website.

C. **Staff Training**

The LEP Coordinators, in conjunction with the Human Resources Division, will develop a training program for key staff to review the LEP, identify LEP persons, differentiate various languages being spoken, understand cultural differences and issues, and service delivery to LEP persons. As new employees are hired, information on the LEP should be provided in their orientation.

D. **Compliance Monitoring and Updating of Policy**

This policy shall be monitored for compliance and updated every five (5) years from date of issuance.

The Court Programs Office and the EEO Officer, in conjunction with the Director of Policy, Planning and Community Relations, will be responsible for compliance monitoring and policy updates as needed.

If you have any questions or require clarification, please contact the LEP Coordinators of Superior or Supreme Courts of Guam. This policy is issued for compliance.



PERRY C. TAITANO
Administrator of the Courts

Date: 7/16/07