

Third Judicial Circuit Language Access Plan

I. Legal Basis and Purpose

This document serves as the Language Access Plan for the 3rd Judicial Circuit of the Unified Judicial System of the State of South Dakota. The purpose of the plan is to assure that the 3rd circuit is in compliance with Title VI of the Civil Rights Act of 1964; 45 C.F.R § 80 et seq; and 28 C.F.R. § 42 et seq. The purpose of this plan is also to provide a framework for the provision of timely and reasonable language assistance to persons with limited English proficiency (LEP) who come in contact with the 3rd Judicial Courts.

The LAP plan has been developed to ensure meaningful access to court services for persons with limited English proficiency as well as to deaf and hard of hearing individuals covered under the Americans with Disabilities Act (ADA) and the Title VI of the Civil Rights Act.

II. Needs Assessment

The 3rd Judicial Circuit provides court services to a wide range of persons, including people who do not speak English or who are hearing impaired. Court services are provided by the trial courts in the 14 counties within the 3rd circuit as well as services provided through the clerk of courts offices and the Court Services Division. The most widely used languages in the 3rd Judicial Circuit:

1. Spanish
2. Karen
3. Hmong
4. Hearing Impaired

III. Language Assistance Resources

A. Interpreters Used In the Courtroom

By South Dakota statute and 3rd circuit policy, it is determined that the constitutional rights of persons handicapped in communication cannot be fully protected unless qualified interpreters are available to assist them in legal proceedings. Third Circuit Policy 07-02-P.

“It is recommended that judges presume a bona fide need for an interpreter when a representation is made by an attorney or by a pro se litigant that a party or witness has limited proficiency in English and requests an interpreter. When any doubt exists about the ability of persons to comprehend proceedings fully or adequately express themselves in the English, interpreters should be appointed.” Guidelines are taken from the “Judge’s Guide to Standards for Interpreted Proceedings” found in Chapter 6 of Court Interpretation: Model Guides for policy and Practice in the State Courts.

B. Payment of Interpretive Service

1. When a witness cannot communicate or understand the English language, the court shall procure and appoint a disinterested interpreter or translator for him who shall be compensated for those services as the court shall certify to be reasonable and just, to be paid and collected as other costs. SDCL 19-3-7

2. Costs for interpreters retained where the witness is unable to communicate in the English language are paid pursuant to SDCL 15-6-54(d) in a civil action and SDCL 23A-27-26 in a criminal proceeding.
3. In criminal matters, the interpreter will submit an invoice or statement to the clerk of courts office. The judge must determine the cost as reasonable and just and approve a voucher. The voucher will be submitted to the county auditor for payment. Telephonic interpretation services will be billed to the Circuit Administrator's office, and then costs will be billed back to the county responsible for payment. Third Circuit Policy 07-02-P
4. In civil matters, the cost is paid by the party requesting the interpreter, subject to the taxation to the losing party. Third Circuit Policy 07-02-P
5. In matters where the interpreter is needed for a post-conviction interview with Court Services, the UJS/3rd Circuit will be responsible for the payment of interpreter costs. Third Circuit Policy 07-02-P

C. Court Interpreter Qualifications

1. The 3rd Judicial Circuit has no certification program in place. The Circuit Court Administrator will screen all applications of persons interested in interpreting in the 3rd Judicial Circuit. Once an interpreter has been screened, the Administrator will make a recommendation to the Presiding Judge to have that interpreter's name placed on a resource list that will be made available to each clerk's office in the circuit. Being screened and placed on the list will not obviate the trial judge's determination of the need for the interpreter or the appropriateness of any interpreter to work on any given case. Third Circuit Policy 07-02P
2. All persons approved for the list will be required to subscribe to a code of ethics approved in the 3rd Judicial Circuit and to sign a written oath that can be filed with the clerk of court. Anyone who has not filed a written oath with the clerk's office will need to take an oath in court for every proceeding. Third Circuit Policy 07-02-P
3. Whenever possible, "screened" or experienced, disinterested interpreters will be used rather than family members or friends, social workers, victim advocates, law enforcement officers, or others with apparent conflicts of interest. Judges may elect to use established interpreter services reasonably available by telephone conference for short proceedings, such as pretrial hearings, initial appearances, arraignments, or motion hearings. Third Circuit Policy 07-02P

D. Spoken Language Services Outside the Courtroom

The Courts of the 3rd Judicial Circuit are also responsible for taking steps to ensure limited English proficiency persons and hearing impaired persons have access to services outside the courtroom. LEP individuals may come in contact with court personnel via the telephone, counter, and written correspondence, applications for orders of protection or for requests for court appointed counsel.

1. Circuit staff may use telephonic interpretation services for customer assistance or probation services. Third Circuit Policy 07-02-P
2. "I Speak" cards are made available in the courthouse.
3. Signage is posted stating the availability of Interpreters.

E. Translated Forms & Documents

The 3rd Circuit understands the importance of translating forms and documents so LEP individuals have greater access to the services provided by the court.

1. The 3rd Circuit provides “Defendant Rights” form in Spanish.

F. Training

1. Training for Clerk of Courts staff is provided by the Circuit Administrator and covers the following:
 - a. The list of screened Interpreters and their geographic location
 - b. The use of Language Line
 - c. Responsibility of Billing
 - d. Use of ITV in reference to interpreters
 - e. Responsibility of making sure an interpreter is available for each hearing
2. Judicial Training:
 - a. Discuss the Guidelines taken from the Judge’s Guide to Standards for Interpreted Proceedings:
 1. An Interpreter Should Be Appointed When
 2. Waiver of an Interpreter
 3. Use of Qualified Interpreter
 4. General Clarification of Interpreter’s Role
 5. Special Clarification of Interpreter’s Role to Sworn Witnesses
 6. Clarification of the Role of the Interpreter to Jurors
 7. Maximizing Communication during Interpreted Proceedings
 8. Interpreter’s Responsibility
 9. Attorney’s Responsibility
 10. Record of Interpreted Testimony
 11. Errors during Witness Interpreting
 12. Modes of Interpreting
 13. Use of Languages Other Than English by Judges, Attorney or Other Participants
 14. Use of Multiple Interpreters
 - b. Discuss the “Judges Checklist for Jury Trials with Interpreters”
 - c. Discuss “Tips for Judges and Attorneys When Working with Interpreters in the Courtroom”
 - d. Discuss “What Court Interpreters would Tell Judges If They Could Speak From Their Hearts”
 - e. Advise the court of the Jury Instruction concerning Interpreters
 - f. Discuss “Sample Voir Dire”
 - g. Discuss the information that should be secured to establish the qualifications of interpreters when no court testing or other prior screening standards exist.
 - h. Discuss suggested text for Judge’s statement in court to clarify the role of the interpreter. Suggested text for clarifying the Interpreter’s role to the witness. Suggested text for clarifying the Interpreter’s Role to the Jury.

G. Annual Evaluation of the LAP

The 3rd Judicial Circuit will conduct an annual needs assessment to determine whether changes to the Language Access Plan are needed. The assessment may be done by tracking the number of interpreters requested by language in the courts, their costs, the number of trials where an interpreter was used, the number of post-conviction interviews where an interpreter was used and the number of instances when an interpreter was used in a non-courtroom circumstance.

Any revision made to the Plan will be communicated to all court personnel, and an updated version of the plan will be posted on the court's web site.

Each year the Circuit Administrator and the Presiding Judge will coordinate with designated local court staff to review the effectiveness of the LAP.

IV. Implementation July 1, 2012

V. Approval

Approved by:



David R. Gienapp
Presiding Judge
Third Judicial Circuit

Dated: 5-31-12



Tony Benning
Circuit Court Administrator
Third Judicial Circuit

Dated: 5-31-12