

## **Language Access Plans**

### **By Circuit**

- 1<sup>st</sup> Circuit
- 2<sup>nd</sup> Circuit
- 3<sup>rd</sup> Circuit
- 4<sup>th</sup> Circuit
- 5<sup>th</sup> Circuit
- 6<sup>th</sup> Circuit
- 7<sup>th</sup> Circuit

# **First Judicial Circuit Language Access Plan**

## **I. Legal Basis and Purpose**

This document serves as the plan for the First Judicial Circuit Courts of the State of South Dakota to ensure access to the court and court services for persons with limited English proficiency (LEP) and deaf/hard of hearing persons. It is designed to respond to Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and to the requirements imposed by Executive Order 13166, South Dakota state law and related guidance. This plan provides a framework for the provision of timely and effective language assistance to persons with LEP who come in contact with the courts of the First Judicial Circuit.

Section 601 of Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d et. seq. provides that "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." Executive Order 13166 requires all agencies receiving federal funds to address the needs of persons who, due to LEP, cannot fully and equally participate in the agency's programs without language assistance.

The US Department of Justice (USDOJ) has issued policy guidance on the responsibility of courts under this order to provide interpreting and translating services. The USDOJ has the right to investigate complaints against any agency that does not provide free languages services when necessary to participate in the program. See generally <http://www.usdoj.gov/crt/cor/13166.htm>. An agency's federal funding may be withheld until the complaint is resolved.

South Dakota state laws addressing court interpreting are found at SDCL 19-3 and SDCL 19-14 et. al, and are reproduced in the Current South Dakota Laws Concerning Court Interpreting section of the *2011 Report to the South Dakota Supreme Court, Supreme Court's Committee to Study the Use of Interpreters and Translators in the South Dakota Court System*.

## **II. Demographics**

Interpreter needs in the 14 counties of the First Judicial Circuit courts are relatively limited. With the exception of Buffalo and Charles Mix counties which have large Native American populations (84% and 31.7% respectively) which generally do not require interpreters, the First Circuit is 95.01% white. This is notably higher than the white population statewide at 85.9%. Hispanics constitute 1.73% of the population in the First Circuit (with the largest concentration being in Aurora County with 3.7%). Statewide the Hispanic population is 2.7%.

*See US Census Bureau, 2010 Census QuickFacts, South Dakota.*

## **III. Needs Assessment**

The First Judicial Circuit Court makes and will continue to make every effort to provide services to all persons with LEP. The following list shows the foreign languages that were used in the past three years in the First Judicial Circuit in addition to sign interpreters for the hearing impaired:

1. Spanish
2. Somali
3. Russian
4. Ukraine
5. Burmese
6. Karen
7. French
8. Cambodian

Review of the three year statistics and a poll of the counties in the First Circuit revealed that Spanish interpreters were by far the most frequently needed; however interpreter needs will vary based on particular needs of individuals involved in court proceedings. The First Judicial Circuit Court currently determines those particular needs and provides interpreter services on a case by case basis in accordance with all applicable laws, and will continue to do so in compliance with any policies, rules, or laws established that may pertain to provision of interpreter services.

## **IV. Language Assistance Resources**

### **A. Determining the Need for an Interpreter in the Courtroom**

"When a witness cannot communicate or understand the English language the court shall procure and appoint a disinterested interpreter or translator for him. . . ." SDCL 19-3-7. It is at the Court's discretion to make the determination when an interpreter is necessary. Among the factors taken into consideration by the court are whether a party or person whose presence is necessary or appropriate in a court proceeding:

1. Is unable to accurately describe persons, places and events related to the proceeding due to a non-English speaking background or hearing impairment;
2. Is unable to tell the court "what happened" over a period of time;
3. Is unable to request clarification when statements are vague or misleading, to defend or advocate a position, or otherwise meaningfully participate in a proceeding;
4. Is not on equal footing with an English speaking person with an equivalent education or background;
5. Is unable to speak or understand English and translation is necessary to allow for effective participation in a proceeding.

*See Supreme Court's Committee to Study the Use of Interpreters and Translators in the South Dakota Court System, 2011 Report to the South Dakota Supreme Court, November 18, 2011, p.23 - 24.*

The Court further determines who qualifies for an interpreter by undertaking the following analysis:

An individual who cannot speak English, or cannot otherwise understand a communication in English, qualifies for appointment of an interpreter if:

1. The individual is a party to a proceeding;
2. The individual's presence is necessary or desirable in a proceeding (i.e. the parent of a juvenile involved in a proceeding);
3. The individual is a person that would be directly affected by any action or decision in the proceeding;
4. The individual is a witness in a proceeding.

*Id.* at 24.

### **B. Providing Interpreters in the Courtroom**

The First Circuit Court relies primarily on the use of Language Line for interpreting services. The counties also have various local interpreters they can utilize as needed. When a local interpreter cannot be located, and/or Language Line is not appropriate for the purpose, Lutheran Social Services in Sioux Falls is our primary resource for interpreters. Lutheran Social Services maintains a roster of interpreters for 36 different languages and provides onsite and remote interpreting. Communication Services for the Deaf is generally utilized when sign interpreters are needed. Considerations taken in scrutinizing potential interpreters' qualifications include:

1. What is the interpreter's native language and if language services needed is not the native language of the interpreter, the length of time speaking the language;
2. What formal schooling relating to the language and interpretation services was completed;
3. What certifications the interpreter possesses;
4. What level of experience he/she possess in interpretation services.

While this is the current procedure, the First Judicial Circuit Court is willing to implement any policies, rules or laws to determine minimum qualifications of interpreters that may be established within the UJS or South Dakota Legislature.

## V. Training and Evaluation

The First Judicial Circuit Court is committed to providing language access training opportunities for all judicial officers and staff members. While training currently is conducted in an informal manner throughout the circuit, additional policies, rules and laws established will be implemented to further training and learning opportunities as they pertain to interpreter services.

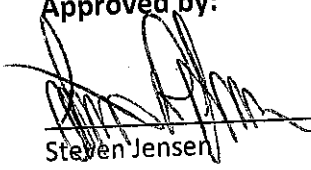
The First Judicial Circuit Court will routinely assess whether changes to the LAP are needed or mandated by policy, rule or law. The plan may be changed or updated at any time but reviewed not less frequently than once a year. Each year the Court Administrator, in consultation with the Presiding Judge, will review the effectiveness of the court's LAP and update as necessary. The evaluation will include identification of any problem areas and development of corrective action strategies. Elements of the evaluation will include:

1. Number of LEP services requested;
2. Assessment of current language needs to determine if additional services or translated materials should be provided;
3. Review of feedback from court employee training sessions; and
4. Customer satisfaction feedback.

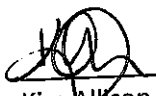
**VI. LAP Effective Date:** July 1, 2012

## VI: Approval

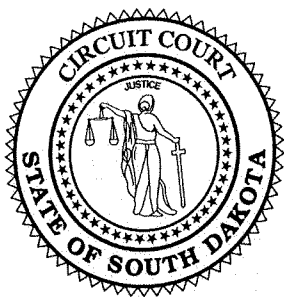
Approved by:

  
Steven Jensen  
Presiding Judge  
First Judicial Circuit

Date: 6/30/12

  
Kim Allison  
Court Administrator  
First Judicial Circuit

Date: 7/3/12



# SECOND JUDICIAL CIRCUIT COURT

## Lincoln & Minnehaha Counties

### Strategic Language Access Plan

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#### ***I. Legal Basis and Purpose***

This document serves as a plan for the Second Judicial Circuit Court, Unified Judicial System of the State of South Dakota, to provide persons with Limited English Proficiency (LEP) services that are in compliance with Title VI of the Civil Rights Act of 1964, Americans with Disabilities Act (ADA), Executive Order 13166; and SDCL 19-3 and SDCL 19-14 et al, which are reproduced in the current South Dakota Laws Concerning Court Interpreting section of the *2011 Report to the South Dakota Supreme Court, Supreme Court's Committee to Study the Use of Interpreters and Translators in the South Dakota Court System*. Detailed guidance is also posted on <http://www.lep.gov/> (Limited English Proficiency, A Federal Interagency Website).

The purpose of this plan is to ensure meaningful and effective communication assistance to LEP individuals that come in contact with the Second Judicial Circuit Courts. In accordance with federal mandates and state requirements, this court and all its personnel shall inform members of the public that language assistance services are available to qualified LEP individuals; and upon request or as deemed necessary by the Second Judicial Circuit Court, accommodate such needs.

#### ***II. Needs Assessment***

According to the 2010 census data, 7.5% of the state's population (over the age of five) speaks a language other than English and 28% of them indicated they speak English less than "very well". Records indicate that the Second Judicial Circuit Court averaged 3.6 interpreter appointments per day, with the top three languages and their distribution as follows:

1. Arabic – 45%
2. Spanish – 25%
3. All Other – 30%

The Second Judicial Circuit Court currently determines LEP needs and provides interpreter services in all cases and office activities in accordance with all applicable laws; and will continue do so in compliance with any policies, rules and laws established pertaining to interpreter services.

### **III. *Language Assistance Resources***

#### **A. Identifying the Need for an Interpreter**

SDCL 19-3-7 states, "When a witness cannot communicate or understand the English language the court shall procure and appoint a disinterested interpreter or translator for him..." Listed below are factors taken into consideration while assessing interpreter needs:

- Inability to accurately describe persons, places and events related to the proceeding due to a non-English speaking background or hearing impairment;
- Inability to tell the court "what happened" over a period of time;
- Inability to request clarification when statements are vague or misleading, to defend or advocate a position, or otherwise meaningfully participate in a proceeding;
- Lack of equal footing with an English speaking person with an equivalent education or background;
- Inability to speak or understand English; and translation is necessary to allow for effective participation in a proceeding.

**Further Analysis:** An individual who cannot speak English, or cannot otherwise understand a communication in English, qualifies for appointment of an interpreter if:

- ✓ The individual is a party to a proceeding;
- ✓ The individual's presence is necessary or desirable in a proceeding (e.g. the parent of a juvenile involved in a proceeding, power of attorney, etc.);
- ✓ The individual is a person that would be directly affected by any action or decision in the proceeding;
- ✓ The individual is a witness in a proceeding.

#### **B. Providing Interpreters in the Courtroom**

The Second Judicial Circuit Court's Administrative Office maintains an updated list of interpreters, including local agencies and private individuals ("freelancers"). The following are merely a few languages on the list: Arabic, Spanish, Amharic, Tigrinya, Lao, Kunama, Mai Mai, French, German, Japanese, Vietnamese, Somali, Bantu and various other languages. Communication Services for the Deaf is also referenced.

In the event a language-specific interpreter is needed but is not on the list, Second Circuit Court Administration will consult with Lutheran Social Services, Community Interpreter Services, A To Z Languages Inc., Language Line, the Multicultural Center of Sioux Falls, or other outside sources to locate the desired interpreter.

Although the South Dakota Court System does not have formal interpreter certification requirements, the Second Judicial Circuit Court is actively committed to providing the best possible interpretation in all our courtrooms; and requires adequate fluency in English and the interpreted language.

Careful consideration is given to the current degree of difficulty in providing interpretation for extremely rare languages, particularly East African dialects and other languages where local interpreters simply do not exist. Remote video and other

interpreting methods may be used to provide such services what practical, local alternatives are not available. Further, the court is aware that deep historic cultural and political conflicts and tensions may persist from the countries of origin of some local groups of non-English speakers. When such conflicts do exist, local interpreters have sometimes refused to provide interpretation services to particular individuals, or the Court itself may have concerns about impartiality. When such situations do arise, the Court will seek interpreter services from other jurisdictions.

#### **IV. Training and Evaluation**

The Second Judicial Circuit Court is committed to providing language access training opportunities to all judicial and non-judicial members. Currently, training is conducted periodically in various ways; newly established policies, rules and laws pertaining to interpreter services will be implemented without hesitation.

The Second Judicial Circuit Court will maintain and routinely assess the LAP in accordance with mandated policies, rules or laws. The plan may be revised at any time but reviewed not less than once a year. Each year, the Court Administrator and Presiding Judge will review the effectiveness of the court's LAP and revise as necessary. The LAP will be evaluated for problem areas and development of corrective action strategies. Elements of evaluation will include:

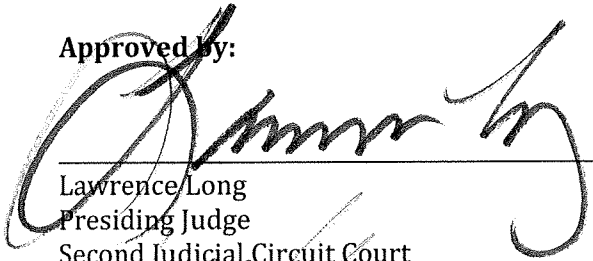
- Number of LEP services requested;
- Assessment of current language needs, services and materials;
- Review court employee training sessions feedback;
- Customer satisfaction feedback.

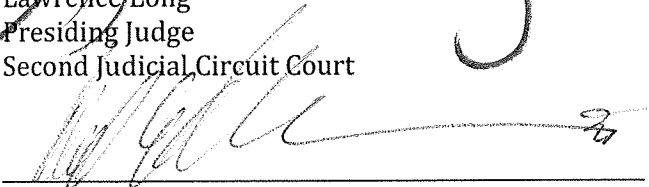
#### **V. LEP Plan Effective Date**

December 11, 2012

#### **VI. Approval**

Approved by:

  
\_\_\_\_\_  
Lawrence Long  
Presiding Judge  
Second Judicial Circuit Court

  
\_\_\_\_\_  
Karl Thoennes III  
Court Administrator  
Second Judicial Circuit Court

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Date

## **Third Judicial Circuit Language Access Plan**

### **I. Legal Basis and Purpose**

This document serves as the Language Access Plan for the 3<sup>rd</sup> Judicial Circuit of the Unified Judicial System of the State of South Dakota. The purpose of the plan is to assure that the 3<sup>rd</sup> 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 3<sup>rd</sup> 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 3<sup>rd</sup> 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 3<sup>rd</sup> circuit as well as services provided through the clerk of courts offices and the Court Services Division. The most widely used languages in the 3<sup>rd</sup> 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 3<sup>rd</sup> 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/3<sup>rd</sup> Circuit will be responsible for the payment of interpreter costs. Third Circuit Policy 07-02-P

#### **C. Court Interpreter Qualifications**

1. The 3<sup>rd</sup> Judicial Circuit has no certification program in place. The Circuit Court Administrator will screen all applications of persons interested in interpreting in the 3<sup>rd</sup> 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 3<sup>rd</sup> 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 3<sup>rd</sup> 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 3<sup>rd</sup> Circuit understands the importance of translating forms and documents so LEP individuals have greater access to the services provided by the court.

1. The 3<sup>rd</sup> 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 3<sup>rd</sup> 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.

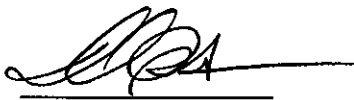
Any revision made to the Plan will be communicated to all court personnel, and an updated version of the plan will be posted on the court's web site.

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**

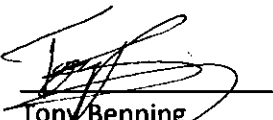
**V. Approval**

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

## **Fourth Judicial Circuit Language Access Plan**

### **I. Legal Basis and Purpose**

This document serves as the plan for the Fourth Judicial Circuit of the Unified Judicial System of the State of South Dakota, to ensure access to the courts for persons with limited English language proficiency (LEP) and hearing impaired persons. This plan is designed to respond to Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and the requirements imposed by Executive Order 13166, South Dakota state law and related guidance. This plan provides a framework for the provision of timely and effective language assistance to persons with LEP to ensure their access to the court services of the Fourth Judicial Circuit.

Section 601 of Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d et. seq. provides that "No person in the United States shall on the grounds 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." Executive Order 13166 requires all agencies receiving federal funds to address the needs of persons who, due to LEP, cannot fully and equally participate in the agency's programs without language assistance.

The US Department of Justice (USDOJ) has issued policy guidelines on the responsibility of courts under this order to provide interpreting and translating services. The USDOJ has the right to investigate complaints against any agency that does not provide free language services when necessary to participate in the program. *See generally* <http://www.usdoj.gov/crt/cor/13166.htm>. An agency's Federal funding may be withheld until the complaint is resolved.

South Dakota state laws addressing court interpreting are found at SDCL 19-3 and SDCL 19-14 et. al, and are reproduced in the Current South Dakota Laws Concerning Court Interpreting section of the *2011 Report to the South Dakota Supreme Court, Supreme Court's Committee to Study the Use of Interpreters and Translators in the South Dakota Court System*.

## **II. Demographics & Needs Assessment**

Interpreter needs in the eight counties of the Fourth Judicial Circuit have been relatively limited to the more highly populated counties of Butte, Lawrence and Meade. The demographic statistics for these counties and the state of South Dakota are provided by the *US Census Bureau, 2011 Census QuickFacts*.

### **South Dakota:**

- White persons not Hispanic: 84.4%
- Persons of Hispanic or Latino Origin: 2.9%
- American Indian Origin: 8.9%

### **Butte County:**

- White persons not Hispanic: 92.0%
- Persons of Hispanic or Latino Origin: 3.3%
- American Indian Origin: 2.1%

### **Lawrence County:**

- White persons not Hispanic: 92.0%
- Persons of Hispanic or Latino Origin: 2.7%
- American Indian Origin: 2.3%

### **Meade County:**

- White persons not Hispanic: 89.4%
- Persons of Hispanic or Latino Origin: 3.5%
- American Indian Origin: 2.5%

The Fourth Judicial Circuit makes every effort to provide services to all persons with LEP. The following list shows the frequency of the foreign languages that were used during the past three years (2009-2012) in Butte, Lawrence, and Meade Counties:

- Spanish (36)
- Vietnamese (3)
- Mandarin (1)
- Turkish (1)

### III. Language Assistance Resources

#### A. Determining the Need for an Interpreter in the Courtroom

“When a witness cannot communicate or understand the English language the Court shall procure and appoint a disinterested interpreter or translator for him...” SDCL 19-3-7. It is at the Court’s discretion to make this determination when an interpreter is necessary. Among the factors taken into consideration by the court are whether a party or person whose presence is necessary or appropriate in a court proceeding:

1. Is unable to accurately describe persons, places and events related to the proceeding due to non-English speaking background or hearing impairment;
2. Is unable to tell the court “what happened” over a period of time;
3. Is unable to request clarification when statements are vague or misleading, to defend or advocate a position, or otherwise meaningfully participate in a proceeding;
4. Is not on equal footing with an English speaking person with an equivalent education or background;
5. Is unable to speak or understand English and translation is necessary to allow for effective participation in a proceeding.

*See Supreme Court’s Committee to Study the Use of Interpreters and Translators in the South Dakota System, 2011 Report to the South Dakota Supreme Court, November 18, 2011, p.23-24.*

The Court further determines who qualifies for an interpreter by undertaking the following analysis:

An individual who cannot speak English, or cannot otherwise understand a communication in English, qualifies for appointment of an interpreter if:

1. The individual is party to a proceeding;
2. The individual’s presence is necessary or desirable in a proceeding (i.e. the parent of a juvenile involved in a proceeding);

3. The individual is a person that would be directly affected by any action or decision in the proceeding;
4. The individual is a witness in a proceeding.

*Id.* At 24

#### B. Providing Interpreters in the Courtroom

The Fourth Circuit relies primarily on the use of Language Line Services for interpreting services within the courtroom. This service is also used by the Lawrence County Public Defender's office in Deadwood, and is being considered for use by the Fourth Circuit Court Services and the Clerk of Courts offices to assist with interpretive needs relating to cases and/or supervision outside of the courtroom setting. A list of local interpreters is also maintained in the Fourth Circuit Court Administrator's office. Communication Services for the Deaf is generally utilized when sign language interpreters are needed. Considerations taken in determining potential interpreter's qualifications include:

1. What is the interpreter's native language and if language services needed is not the native language of the interpreter, the length of time speaking the language;
2. What formal schooling relating to the language and interpretation services was completed;
3. What certifications the interpreter possesses;
4. What level of experience the interpreter possesses in interpretation services.

While this is the current procedure, the Fourth Judicial Circuit Court is willing to implement any policies, rules or laws to determine minimum qualifications of interpreters that may be established within the UJS or South Dakota Legislature.

### **IV. Training and Evaluation**

The Fourth Judicial Circuit is committed to providing language access training opportunities for all judicial officers and staff members. While training currently is conducted on an informal basis throughout the circuit, additional policies, rules

and laws established will be implemented to further training and educational opportunities as they pertain to interpreter services.


The Fourth Judicial Circuit will routinely assess whether changes to the LAP are needed or mandated by policy, rule or law. The plan may be changed or updated at any time but will be reviewed not less frequently than once a year. Each year the Court Administrator, in consultation with the Presiding Judge, will review the effectiveness of the court's LAP and update as necessary. The evaluation will include identification of any problem areas and development of corrective action strategies. Elements of the evaluation will include:

1. Number of LEP services requested;
2. Assessment of current language needs to determine if additional services or translated materials should be provided;
3. Review of feedback from court employee training sessions; and
4. Customer satisfaction feedback.

**V. LAP Effective Date:** July 1, 2012

**VI. Approval**

**Approved by:**

  
\_\_\_\_\_  
**Warren G. Johnson**  
Presiding Judge  
Fourth Judicial Circuit

Date: August 30, 2012

  
\_\_\_\_\_  
**Michael A. Pisciotto**  
Court Administrator  
Fourth Judicial Circuit

Date: 8/30/12



# **FIFTH JUDICIAL CIRCUIT**

## **LANGUAGE ACCESS PLAN**

### **I. Legal Basis and Purpose**

This document serves as the plan for the Fifth Judicial Circuit Courts of the State of South Dakota to ensure access to the court and court services for persons with limited English proficiency (LEP) and deaf/hard of hearing persons. It is designed to respond to Title VI of the Civil Rights Act of 1964, the Americans with disabilities Act and to the requirements imposed by Executive Order 13166, South Dakota state law and related guidance. This plan provides a framework for the provision of timely and effective language assistance to persons with LEP who come in contact with the courts of the Fifth Judicial Circuit.

Section 601 of Title VI of the Civil Rights Act of 1964, 42 USC Section 20000d et. seq. provides that “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.” Executive Order 13166 requires all agencies receiving federal funds to address the needs of persons who, due to LEP, cannot fully and equally participate in the agency’s programs without language assistance.

The US Department of Justice (USDOJ) has issued policy guidance on the responsibility of courts under this order to provide interpreting and translating services. The USDOJ has the right to investigate complaints against any agency that does not provide free language services when necessary to participate in the program. *See generally* <http://www.usdoj.gov/crt/cor/13166.htm>. Any agency’s federal funding may be withheld until the complaint is resolved.

South Dakota state laws addressing court interpreting are found at SDCL 19-3 and SDCL 19-4 et.al, and are reproduced in the Current South Dakota Laws Concerning Court Interpreting section of the *2011 Report to the South Dakota Supreme Court, Supreme Court’s Committee to Study the Use of Interpreters and Translators in the South Dakota Court System*.

## **II. Needs Assessment**

The Fifth Judicial Circuit Court makes and will continue to make every effort to provide services to all persons with LEP. The following list shows the foreign languages that were used in the past two years in the Fifth Judicial Circuit:

1. Spanish
2. Korean
3. Karen
4. Mandarin

Review of the two year statistics and a poll of the counties in the Fifth Circuit revealed that Spanish interpreters were by far the most frequently needed; however interpreter needs will vary based on particular needs of individuals involved in court proceedings. The Fifth Judicial Circuit Court currently determines those particular needs and provides interpreter services on a case by case basis in accordance with all applicable laws, and will continue to do so in compliance with any policies, rules, or laws established that may pertain to provision of interpreter services.

## **III. Language Assistance Resources**

### **A. Determining the Need for an Interpreter in the Courtroom**

“When a witness cannot communicate or understand the English language the court shall procure and appoint a disinterested interpreter or translator for him....” SDCL 19-3-7. It is at the Court’s discretion to make the determination when an interpreter is necessary. Among the factors taken into consideration by the court are whether a party or person whose presence is necessary or appropriate in a court proceeding:

1. Is unable to accurately describe persons, places and events related to the proceedings due to a non-English speaking background or hearing impairment;
2. Is unable to tell the court “what happened” over a period of time;
3. Is unable to request clarification when statements are vague or misleading, to defend or advocate a position, or otherwise meaningfully participate in a proceeding;
4. Is not on equal footing with an English speaking person with an equivalent education or background;
5. Is unable to speak or understand English and translation necessary to allow for effective participation in a proceeding.

*See Supreme Court's Committee to Study the Use of Interpreters and Translators in the South Dakota Court System, 2011 Report to the South Dakota Supreme Court, November 18, 2011, p. 23-24.*

The Court further determines who qualifies for an interpreter by undertaking the following analysis:

An individual who cannot speak English, or cannot otherwise understand a communication in English, qualifies for appointment of an interpreter if:

1. The individual is a party to a proceeding;
2. The individual's presence is necessary or desirable in a proceeding (i.e. the parent of a juvenile involved in a proceeding);
3. The individual is a person that would be directly affected by any action or decision in the proceeding;
4. The individual is a witness in a proceeding.

*Id.* At 24.

#### B. Providing Interpreters in the Courtroom

The Fifth Circuit Court relies primarily on the use of Language Line for interpreting services. Some counties also have local interpreters they can utilize as needed. When a local interpreter cannot be located, and or/Language Line is not appropriate for the purpose, the Court will consult with outside sources such as Lutheran Social Service in Sioux Falls, or other circuits within the state to locate the needed interpreter. In addition, a "sign" interpreter is utilized when needed, for the deaf. Qualifications of the interpreters are scrutinized by the Presiding Judge and Court Administrator to determine whether the Interpreter will fit the court's needs. Considerations taking in scrutinizing potential interpreters' qualifications include:

1. What is the interpreter's native language and if language services needed is not the native language of the interpreter, the length of time speaking the language;
2. What formal schooling relating to the language and interpretation services was completed;
3. What certifications the interpreter possesses;
4. What level of experience he/she possess in interpretation services.

While this is the current procedure, the Fifth Judicial Circuit Court is willing to implement any policies, rules, or laws to determine minimum qualifications of interpreters that may be established within the UJS or South Dakota Legislature.

#### **IV. Training and Evaluation**

The Fifth Judicial Circuit Court is committed to providing language access training opportunities for all judicial officers and staff members. While training currently is conducted in an informal manner through the circuit, additional policies, rules, and laws established will be implemented to further training and learning opportunities as they pertain to interpreter services.

The Fifth Judicial Circuit Court will routinely assess whether changes to the LAP are needed or mandated by policy, rule, or law. The plan may be changed or updated at any time but reviewed not less frequently than once a year. Each year the Court Administrator, in consultation with the Presiding Judge, will review the effectiveness of the court's LAP and update as necessary. The evaluation will include identification of any problem areas and development of corrective action strategies. Elements of the evaluation will include:

Number of LEP services requested;

Assessment of current language needs to determine if additional services or translated materials should be provided;

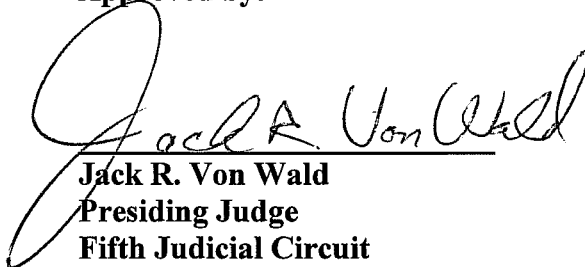
Review of feedback from court employee training sessions; and

Customer satisfaction feedback.

#### **V. LAP Effective Date: November 1, 2012**

#### **VI. Approval**

Approved by:

  
Jack R. Von Wald  
Presiding Judge  
Fifth Judicial Circuit

Dated: 10/31/12

  
Susan Compaan  
Circuit Court Administrator  
Fifth Judicial Circuit

Dated: 10/31/12

**Sixth Judicial Circuit  
South Dakota  
LANGUAGE ACCESS PLAN**

**1. Legal Basis and Purpose**

This document serves as the plan for the Sixth Judicial Circuit, Unified Judicial System of the State of South Dakota to ensure access to court services for persons with limited English language proficiency (LEP) and deaf/hard of hearing persons. It is designed to respond to Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and to the requirements imposed by Executive Order 13166, South Dakota state law and related guidance. This plan provides a framework for the provision of timely and effective language assistance to persons with LEP who come in contact with the courts of the Sixth Judicial Circuit.

Section 601 of title VI of the Civil Rights Act of 1964, 42 USC Section 2000d, et. seq., 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." Executive Order 13166 requires all agencies receiving federal funds to address the needs of persons who, due to LEP, cannot fully and equally participate in the agency's programs without language assistance.

The US Department of Justice (USDOJ) has issued policy guidance on the responsibility of courts under this order to provide interpreting and translating services. The USDOJ has the right to investigate complaints against any agency that does not provide free language services when necessary to participate in the program. *See generally* <http://www.usdoj.gov/crt/cor/13166.htm>. An agency's federal funding may be withheld until the complaint is resolved.

South Dakota state laws addressing court interpreting are found at SDCL Chap. 19-3 and SDCL Chap. 19-14, et al, and are reproduced in the Current South Dakota Laws Concerning court Interpreting section of the *2011 Report to the South Dakota Supreme court, Supreme Court's Committee to Study the Use of Interpreters and Translators in the South Dakota Court System*.

**2. Needs Assessment**

The Sixth Judicial Circuit Court makes and will continue to make every effort to provide services to all persons with LEP. The following list shows the foreign languages that were used in the past five years in the Sixth Judicial Circuit:

| <u>INTERPRETERS</u>            | <u>2012</u> | <u>2013</u> | <u>2014</u> | <u>2015</u> | <u>2016</u> |
|--------------------------------|-------------|-------------|-------------|-------------|-------------|
| COMM SERVICE FOR DEAF<br>(CSD) | 0           | 0           | 1           | 3           | 3           |
| LANGUAGE LINE                  |             |             |             |             |             |
| SPANISH                        | 0           | 1           | 9           | 10          | 3           |
| KAREN                          | 0           | 0           | 2           | 0           | 0           |
| KUNAMA                         | 0           | 0           | 0           | 2           | 0           |
| RUSSIAN                        | 0           | 0           | 0           | 2           | 0           |
| CAMBODIAN                      | 0           | 0           | 0           | 0           | 1           |
| CANTONESE                      | 0           | 1           | 0           | 0           | 0           |
| TIGRINYA                       | 0           | 0           | 0           | 1           | 0           |
| SPANISH                        | 0           | 1           | 0           | 1           | 0           |

Review of the five year statistics reveals that Spanish interpreters were most frequently needed, however interpreter needs will vary based on particular needs of individuals involved in court proceedings. The Sixth Judicial Circuit Court currently determines those particular needs and provides interpreter services on a case-by-case basis in accordance with all applicable laws, and will continue to do so in compliance with any policies, rules or laws established that may pertain to the provision of interpreter services.

### 3. Language Assistance Resources

#### A. Determining the Need for an Interpreter in the Courtroom

“When a witness cannot communicate or understand the English language the court shall procure and appoint a disinterested interpreter or translator for him ....” SDCL 19-3-7. It is at the court’s discretion to make the determination when an interpreter is necessary. Among the factors taken into consideration by the court are whether a party or person whose presence is necessary or appropriate in a court proceeding:

1. Is unable to accurately describe persons, places and events related to the proceeding due to a non-English speaking background or hearing impairment;
2. Is unable to tell the court “what happened” over a period of time;
3. Is unable to request clarification when statements are vague or misleading, to defend or advocate a position, or otherwise meaningfully participate in a proceeding;
4. Is not on equal footing with an English speaking person with an equivalent education or background;
5. Is unable to speak or understand English and translation is necessary to allow for effective participation in a proceeding.

*See Supreme Court’s Committee to Study the Use of Interpreters and Translators in the South Dakota Court System, 2011 Report to the South Dakota Supreme Court, November 18, 2011, p. 23-24.*

The Court further determines who qualifies for an interpreter by undertaking the following analysis:

An individual who cannot speak English, or cannot otherwise understand a communication in English, qualifies for appointment of an interpreter if:

1. The individual is a party to a proceeding;
2. The individual's presence is necessary or desirable in a proceeding (i.e. the parent of a juvenile involved in a proceeding);
3. The individual is a person that would be directly affected by any action or decision in the proceeding;
4. The individual is a witness in a proceeding.

*Id.* at 24.

#### **B. Providing Interpreters in the Courtroom**

The Sixth Circuit Court Administrator maintains a continually updated list of interpreters posted on the UJS website [www.ujis.sd.gov](http://www.ujis.sd.gov) who may be contacted when the Court determines that an interpreter is necessary. The list includes at least one Spanish interpreter within the circuit. In addition, an interpreter from Communication Services for the Deaf can be made available.

In situations where an interpreter of a language not listed is needed, the Sixth Circuit Court Administrator will consult with outside sources such as Lutheran Social Services in Sioux Falls, South Dakota, or other circuits within the state, to locate the needed interpreter. Telephonic interpreter services will also be used. Qualifications of interpreters are scrutinized by the judge presiding on the case to determine whether the interpreter will fit the court's needs. Considerations taken in scrutinizing potential interpreters' qualifications include those required by South Dakota Codified Law and may include:

1. What is the interpreters' native language and if language services needed is not the native language of the interpreter, the length of time speaking the language;
2. What formal schooling relating to the language and interpretation services was completed;
3. What certifications the interpreter possesses; and/or
4. What level of experience he/she possesses in interpretation services.

While this is the current procedure, the Sixth Judicial Circuit Court is willing to implement any policies, rules or laws to determine minimum qualifications of interpreters that may be established within the UJS or by the South Dakota Legislature.

#### 4. Training and Evaluation

The Sixth Judicial Circuit Court is committed to providing language access training opportunities for all judicial officers and staff members. While training currently is conducted in an informal manner throughout the circuit, additional policies, rules, and laws established will be implemented to further training and learning opportunities as they pertain to interpreter services.

The Sixth Judicial Circuit Court will routinely assess whether changes to the LAP are needed or mandated by policy, rule or law. The plan may be changed or updated at any time but reviewed not less frequently than once a year. Each year the Circuit Court Administrator, in consultation with the Presiding Judge, will review the effectiveness of the court's LAP and update it as deemed necessary. The evaluation will include identification of any problem areas and development of corrective action strategies. Elements of the evaluation will include:

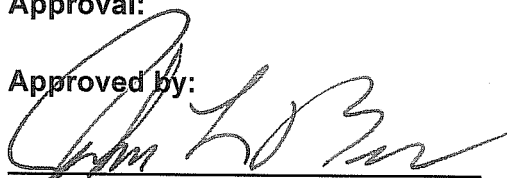
1. Number of LEP services requested;
2. Assessment of current language needs to determine if additional services or translated materials should be provided;
3. Review of feedback from court employee training sessions; and
4. Customer satisfaction feedback.

#### 5. LAP Effective Date:

October 24, 2016

#### 6. Approval:

Approved by:

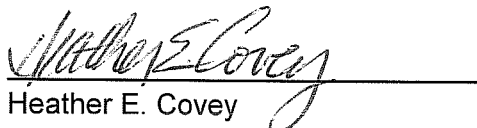


Hon. John L. Brown

Presiding Judge

Sixth Judicial Circuit

Date: 10/24/16



Heather E. Covey

Circuit Court Administrator

Sixth Judicial Circuit

Date: 10/24/16



# Seventh Judicial Circuit Language Access Plan

## I. Legal Basis and Purpose

This document serves as the plan for the Seventh Judicial Circuit, Unified Judicial System of the State of South Dakota to ensure access to court services for persons with limited English proficiency (LEP) and deaf/hard of hearing persons. It is designed to respond to Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and to the requirements imposed by Executive Order 13166, South Dakota state law and related guidance. This plan provides a framework for the provision of timely and effective language assistance to persons with LEP who come in contact with the courts of the Seventh Judicial Circuit.

Section 601 of Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d et. seq. provides that "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." Executive Order 13166 requires all agencies receiving federal funds to address the needs of persons who, due to LEP, cannot fully and equally participate in the agency's programs without language assistance.

The US Department of Justice (USDOJ) has issued policy guidance on the responsibility of courts under this order to provide interpreting and translating services. The USDOJ has the right to investigate complaints against any agency that does not provide free languages services when necessary to participate in the program. *See generally* <http://www.usdoj.gov/crt/cor/13166.htm>. An agency's federal funding may be withheld until the complaint is resolved.

South Dakota state laws addressing court interpreting are found at SDCL 19-3 and SDCL 19-14 et. al, and are reproduced in the Current South Dakota Laws Concerning Court Interpreting section of the *2011 Report to the South Dakota Supreme Court, Supreme Court's Committee to Study the Use of Interpreters and Translators in the South Dakota Court System*.

## II. Needs Assessment

The Seventh Judicial Circuit Court makes and will continue to make every effort to provide services to all persons with LEP. The following list shows the foreign languages that were used in the past five years in the Seventh Judicial Circuit:

| <b>INTERPRETERS</b>         | <b>2007</b> | <b>2008</b> | <b>2009</b> | <b>2010</b> | <b>2011</b> | <b>2012</b> |
|-----------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| COMM SERVICE FOR DEAF (CSD) | 12          | 9           | 10          | 13          | 10          | 4           |
| LANGUAGE LINE               | 14          | 16          | 27          | 21          | 26          | 2           |
| SPANISH                     | 40          | 99          | 51          | 75          | 53          | 23          |
| ARABIC                      |             |             | 1           |             | 3           | 2           |
| VIETNAMESE<br>(04/13/2012)  | 2           |             |             |             |             |             |

Review of the five year statistics reveals that Spanish interpreters were most frequently needed, however interpreter needs will vary based on particular needs of individuals involved in court proceedings. The Seventh Judicial Circuit Court currently determines those particular needs and provides interpreter services on a case by case basis in accordance with all applicable laws, and will continue to do so in compliance with any policies, rules or laws established that may pertain to provision of interpreter services.

### **III. Language Assistance Resources**

#### **A. Determining the Need for an Interpreter in the Courtroom**

“When a witness cannot communicate or understand the English language the court shall procure and appoint a disinterested interpreter or translator for him. . . .” SDCL 19-3-7. It is at the Court’s discretion to make the determination when an interpreter is necessary. Among the factors taken into consideration by the court are whether a party or person whose presence is necessary or appropriate in a court proceeding:

1. Is unable to accurately describe persons, places and events related to the proceeding due to a non-English speaking background or hearing impairment;
2. Is unable to tell the court “what happened” over a period of time;
3. Is unable to request clarification when statements are vague or misleading, to defend or advocate a position, or otherwise meaningfully participate in a proceeding;
4. Is not on equal footing with an English speaking person with an equivalent education or background;
5. Is unable to speak or understand English and translation is necessary to allow for effective participation in a proceeding.

*See Supreme Court’s Committee to Study the Use of Interpreters and Translators in the South Dakota Court System, 2011 Report to the South Dakota Supreme Court, November 18, 2011, p.23 - 24.*

The Court further determines who qualifies for an interpreter by undertaking the following analysis:

An individual who cannot speak English, or cannot otherwise understand a communication in English, qualifies for appointment of an interpreter if:

1. The individual is a party to a proceeding;
2. The individual’s presence is necessary or desirable in a proceeding (i.e. the parent of a juvenile involved in a proceeding);
3. The individual is a person that would be directly affected by any action or decision in the proceeding;
4. The individual is a witness in a proceeding.

*Id.* at 24.

## **B. Providing Interpreters in the Courtroom**

The Seventh Circuit Court Administrative Office maintains a continually updated list of interpreters who may be contacted when the Court determines that an interpreter is necessary. The list includes Spanish, Arabic, Cantonese, Dutch, Filipino, Romanian, German, Japanese, Lakota, Mandarin, Polish, Serbo-Croatian, and Vietnamese interpreters. In addition, an interpreter from Communication Services for the Deaf is referenced.

In situations where an interpreter of a language not listed is needed, Circuit Court Administration will consult with outside sources such as Lutheran Social Services in Sioux Falls, or other circuits within the state to locate the needed interpreter. Administration consults with Ellsworth Air Force Base in some instances, as the Base sometimes has interpreters to fit the court's needs. Qualifications of the interpreters are scrutinized by the Presiding Judge and Court Administrator to determine whether the interpreter will fit the court's needs. Considerations taken in scrutinizing potential interpreters' qualifications include:

1. What is the interpreter's native language and if language services needed is not the native language of the interpreter, the length of time speaking the language;
2. What formal schooling relating to the language and interpretation services was completed;
3. What certifications the interpreter possesses;
4. What level of experience he/she possess in interpretation services.

While this is the current procedure, the Seventh Judicial Circuit Court is willing to implement any policies, rules or laws to determine minimum qualifications of interpreters that may be established within the UJS or South Dakota Legislature.

## **IV. Training and Evaluation**

The Seventh Judicial Circuit Court is committed to providing language access training opportunities for all judicial officers and staff members. While training currently is conducted in an informal manner throughout the circuit, additional policies, rules and laws established will be implemented to further training and learning opportunities as they pertain to interpreter services.

The Seventh Judicial Circuit Court will routinely assess whether changes to the LAP are needed or mandated by policy, rule or law. Then plan may be changed or updated at any time but reviewed not less frequently than once a year. Each year the Court Administrator, in consultation with the Presiding Judge, will review the effectiveness of the court's LAP and update as necessary. The evaluation will include identification of any problem areas and development of corrective action strategies. Elements of the evaluation will include:

1. Number of LEP services requested;
2. Assessment of current language needs to determine if additional services or translated materials should be provided; -
3. Review of feedback from court employee training sessions; and
4. Customer satisfaction feedback.

**V. LEP Plan Effective Date:**

June 1, 2012

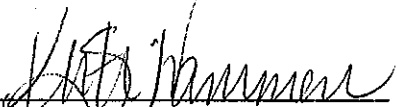
**VI: Approval**

Approved by:



\_\_\_\_\_  
Jeff W. Davis  
Presiding Judge  
Seventh Judicial Circuit

Date: 4/19/12



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Kristi K. Wammen  
Court Administrator  
Seventh Judicial Circuit

Date: 4/19/12