

**LANGUAGE ACCESS PLAN (LAP)
FOR
THE BENTON COUNTY SUPERIOR COURT
AND
THE BENTON COUNTY CLERK**

I. PURPOSE

This Language Access Plan (LAP) sets forth the **BENTON COUNTY SUPERIOR COURT'S AND BENTON COUNTY CLERK'S** policy and procedures for the provision of timely language access services that ensure access for all limited English proficient (LEP), deaf, hard of hearing, and deaf-blind (D/HH/DB) individuals who come in contact with the Benton County Superior Court's and Benton County Clerk's services and programs. Language access services include both interpretation and translation services for LEP and D/HH/DB individuals.

II. COURT POLICY REGARDING LANGUAGE ACCESS SERVICES

Under Washington state law (RCW 2.42 and 2.43), Title VI of the Civil Rights Act of 1964 (Title VI), the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act), the Americans with Disabilities Act (ADA), and the regulations implementing these federal laws, Washington courts are required to provide language access services to all LEP and D/HH/DB individuals in civil and criminal court proceedings and in all court-managed services and programs and to develop a written language access plan pursuant to RCW 2.43.090.

It is the policy of the Benton County Superior Court and Benton County Clerk to provide foreign language interpreter services at no cost to LEP parties, witnesses, victims, and others with an interest (e.g., parents, legal guardians, custodians) in all court proceedings and operations, both civil and criminal, other than when it is the responsibility of other government bodies pursuant to state law. It is also the policy of this court to provide sign language interpreting services at no cost to persons who are D/HH/DB as required under applicable state and federal statutes and regulations.

Benton County Superior Court and the Benton County Clerk will provide accessible information to LEP and D/HH/DB persons on how to request these language assistance services and vital documents as part of its notice to the public about its language access services.

Although D/HH/DB individuals are covered under the ADA and RCW 2.42 rather than Title VI and the Safe Streets Act, this plan covers language access services for both D/HH/DB and LEP individuals.

III. DATA COLLECTION AND NEEDS ASSESSMENT

The Court Administrator for the Benton County Superior Court and the Benton County Clerk will, on an annual basis, compile demographic data regarding the language needs of its community. The court will initially review data from sources such as the following:

- Washington Tracking Network for Language Population Census for Communities
- Kennewick, Richland, Prosser, Kiona-Benton and Paterson School Districts

This data will be analyzed annually to determine whether the court's allocation of language access resources is appropriate.

The Benton County Superior Court and the Benton County Clerk will make every effort to track requests for language access services by:

- Language preference (spoken, written, and signed)
- If denied, reason for denial

In addition to mechanisms discussed under the identification of language needs section below, the Benton County Superior Court and Benton County Clerk will track internal data regarding interpreter language needs provided. On a yearly basis, the court will analyze the data collected to identify whether services requested are in fact provided, assist in the allocation of language access resources, and identify gaps in the provision of services to address future needs.

The Benton County Superior Court and Benton County Clerk will send the final data compilation and analyses in the form of a biennial report to the Washington State Court Interpreter Commission to assist the Commission in monitoring of the court's Language Access Plan, identification of interpreter training and certification strategies, and other tools to assist the AOC and local courts in the provision of language access services.

A. Identified Current Needs

The most current language need identification efforts undertaken by Benton County Superior Court and the Benton County Clerk shows the following non-English languages, whether spoken or signed, that are most frequently used in our **geographic area**:

- Spanish
- Chinese (unspecified)
- Serbo-Croatian
- Vietnamese
- Arabic

The most current language need identification efforts undertaken by Benton County Superior Court and the Benton County Clerk shows the following foreign or sign languages that are most frequently used in our **court community**:

- Spanish
- Arabic
- Somali
- Ukrainian
- American Sign Language

B. Identified Future Needs (if any)

Benton County Superior Court and the Benton County Clerk has identified the following emerging and/or additional languages among court users in the area for which resources will be needed in the future:

- Punjabi
- Chinese (unspecified)
- Karen

IV. LANGUAGE ASSISTANCE IDENTIFICATION AND RESOURCES

A. Designated Language Access Office

The Benton County Superior Court and the Benton County Clerk has designated the Superior Court Administrative Assistant as the Interpreter Coordinator as the person responsible for coordinating language access services and to whom requests for interpreters and other language access services may be addressed. This designated person is available to:

- Develop lists of interpreters and secure interpreter services
- Receive and track language assistance requests;
- Address gaps in interpreter services by conducting outreach as needed;
- Provide information to assist LEP and D/HH/DB individuals to secure language access services;
- Assist or provide referrals to attorneys, justice partners, and other relevant persons to secure language access services for their clients and constituents;
- Assist court staff with securing language access services; and
- Answer questions from LEP and D/HH/DB individuals, and the public at large, regarding the court's available language access services, including the court's language access resources such as translated materials, interpreter roster, language identification cards, and other resources identified in this Plan.

LEP and D/HH/DB individuals, attorneys, justice partners, government agencies, and any other entities in need of language access services for court programs or activities or to acquire such services or information for themselves or their clients, may contact:

Benton & Franklin Counties Superior Court Administration
Administrative Assistance/Interpreter Coordinator
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336
509-736-3071 ext. 3219

B. Identification of Language Access Needs and Notice of Availability

LEP and D/HH/DB, individuals may come in contact with court personnel via the phone, TTY / TDD, in-person, or through other means. In addition, there are various points of contact within Benton County Superior Court and the Benton County Clerk's offices where LEP individuals or persons who are D/HH/DB will be in contact with court staff. Sometimes people who need language access services, including translated documents, will not request these services because they do not realize that such services are available at no charge, or because they do not recognize the level of English-language proficiency or communication ability needed to effectively participate in the court program, court proceeding, or court services. The first step in providing language access services is to enable LEP individuals or persons who are D/HH/DB to properly identify their language needs.

As a first step towards ensuring that LEP and D/HH/DB individuals are able to properly identify their language needs and to request language access and assistance services, Benton County Superior Court and the Benton County Clerk has a legal obligation to provide accessible notice to the public of an individual's right to spoken and sign language interpreter services and to be provided vital documents in translated form whenever necessary to access court proceedings and court-managed programs.

1. Identifying Language Needs at Points of Access

Benton County Superior Court and the Benton County Clerk will identify language access needs at all points of contact with the court, such as the following:

- Telephone calls to Superior Court Administration staff:
 - 509-736-3071
- Superior Court Administration Office:
 - Benton County Justice Center – Kennewick, WA
- Clerks' Offices at the following locations:
 - Benton County Courthouse – Prosser, WA
 - Benton County Justice Center – Kennewick, WA
- Courtroom(s) at the following court houses:
 - Benton County Courthouse – Prosser, WA
 - Benton County Justice Center – Kennewick, WA
- Court Facilitator or pro se services provided by the court at:
 - Benton County Justice Center – Kennewick, WA
 -

- Court-managed programs and services at:
 - Benton County Justice Center – Kennewick, WA

To ensure the earliest possible identification of the need for language access services, the Benton County Superior Court and the Benton County Clerk have established internal protocols with the various justice partners which routinely interact with this court in order for these partners to communicate to the appropriate court staff the needs of LEP or D/HH/DB participants who will be coming into contact with the court. While justice partners themselves may be under a separate legal obligation to provide language access services to their clients, the court will be notified of any services that fall under the responsibility of the court as early as possible so services may be provided in a timely and efficient manner. Examples of justice partners to be notified include:

- Jail staff
- Domestic violence victim's advocate
- Attorney/public defender/prosecutor
- Court facilitator

2. Notice of the Availability of Language Access Services

In order to facilitate the ability of LEP and D/HH/DB individuals to request their need for language access services, the Benton County Superior Court and the Benton County Clerk shall provide notice of the availability of language access services translated into Benton County's most frequently used language that states:

"You have the right to language access services at no cost to you. To request these services, please contact the Benton & Franklin Counties Superior Court Administration office located at 7122 W. Okanogan Place, Bldg. A, Kennewick, Washington or by telephone at 509-736-3071 ext. 3070".

The Benton County Superior Court and the Benton County Clerk display this notice on its website and at the following locations:

- Benton & Franklin Counties Superior Court Administration Office Lobby
- Benton County Clerk's Office Bulletin Board
- Benton County Courtrooms

Additionally, the Benton County Superior Court and the Benton County Clerk have the following resources available at its points of contact, including those listed above when appropriate, to help LEP and D/HH/DB and court staff communicate with each other:

- Language identification cards at all points of contact
- Notices at all appropriate points of contact notifying members of the

public of their right to request an interpreter or other language assistance at any point during their contact with the court.

When it appears that an individual has difficulty communicating due to a language barrier, the Benton County Superior Court and Benton County Clerk's staff must inform the LEP or D/HH/DB person of his or her right to have language access services provided by the courts at no cost to them, even if the LEP or D/HH/DB person has not made a request for the language access services.

V. LANGUAGE ACCESS SERVICES

Once the Benton County Superior Court and Benton County Clerk's staff has determined interpreter services are required for an LEP or D/HH/DB individual, court staff have access to the following procedures for securing an interpreter.

A. Language Access Services Inside the Court Room

1. Appointment of a Certified, Registered, or Qualified Interpreter for In Court Proceedings

The person responsible for appointing or securing the assistance of an interpreter at the Benton County Superior Court will comply with the following order of preference in appointing an interpreter in RCW 2.43.030:

RCW 2.43.030(1) (b)

An in-person Certified or Registered interpreter who has been credentialed by the Administrative Office of the Courts shall be appointed, whenever possible, unless good cause is found and noted by the appointing authority. "Good cause" includes, but is not limited to, a determination that:

- (i) Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of an in-person credentialed interpreter are not reasonably available to the appointing authority; or
- (ii) The current list of credentialed interpreters maintained by the Administrative Office of the Courts does not include an interpreter in the language spoken by the LEP.

RCW 2.43.030(2)

If good cause is found for using an interpreter who is not credentialed by the Administrative Office of the Court, the appointing authority shall make a preliminary determination that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:

- (a) Is capable of communicating effectively with the court or agency and the person for who the interpreter would interpret; and
- (a) Has read, understands, and will abide by the code of ethics for language interpreters established by court rules.

In the event no in-person interpreter is available locally, the court or designated authority will weigh the need for moving forward with the proceeding against any possible negative consequences to the LEP or D/HH/DB person's ability to effectively participate in the proceedings through the use of a remote interpreter, as may be allowed by Washington court rule or law. When evidentiary matters are before the court, the court shall reschedule the hearing until an in-person interpreter is available, whether located in-state or out-of-state, and be made present at the hearing.

The Benton County Superior Court will NOT appoint as interpreters anyone with a potential conflict of interest in the case, including the following: minors; friends and family of the LEP or D/HH/DB person; advocates and attorneys; justice partner bilingual staff; or anyone deemed unqualified after voir dire by the court.

2. Practices in the Appointment and Use of Interpreters

In appointing interpreters, the Benton County Superior Court, will ensure that the interpreter and the LEP or D/HH/DB participant can effectively communicate. It is also the practice of the Benton County Superior Court to:

- Make a determination of the appropriate number of interpreters that may be required for the proceeding. When the proper administration of justice so requires the court will appoint multiple or separate interpreters.
- For long hearing sessions or trials, appoint a team of two interpreters or if no second interpreter is available, allow the interpreter to have frequent breaks to avoid interpreting fatigue, ensure accuracy, and avoid subsequent errors.
- Only allow an LEP or D/HH/DB person to waive his or her right to the assistance of an interpreter if the waiver is knowing, voluntary, and on the record. The waiver of an interpreter may be rejected by the court or later revoked by the person.
- Require interpreters to provide sight translations for documents related to the court proceedings.
- Prohibit interpreters from assisting LEP or D/HH/DB with entering information on court forms without the involvement of court staff in the completion of such forms.

- Provide sign language interpreters for jurors who are D/HH/DB when such persons are called and selected for jury service

3. Calendaring and Scheduling of Interpreters for In-court and Out-of-court Contacts

Benton County Superior Court will provide interpreter services in a timely manner. In order to provide high quality language access services in an efficient manner, Benton County Superior Court employs the following practices

- Coordinating calendars so an interpreter may be available for several matters in the same court location on the same day.
- Establishing systems so that an interpreter coordinator can easily dispatch an interpreter from one court location to another, or one courtroom to another, efficiently, such as:
 - Text messaging and email
- Coordinating the use of interpreters so that when an interpreter is not busy in a courtroom proceeding he or she may be available in person or telephonically to assist in other court-managed services

4. Remote Interpreting

For short non-evidentiary hearings, the Benton County Superior Court uses the following remote interpreting technologies:

- Telephonic interpreting provided by credentialed interpreters
- Telephonic interpreting agencies

The policy or practice of the court with regard to the use of remote interpreting services is as follows:

- Telephonic interpreting use will be consistent with GR 11.3 and will be used with caution. Generally, in-person interpreters are preferred.

The court requires training for staff and appointing authorities on telephonic interpreting, how to use the technologies, how to best utilize the remote interpreter, and what are appropriate events for such types of remote interpreting service. Telephonic interpreting shall not be the only option available to the court and should be used when in-person interpretation services are not available.

B. Language Services Outside the Courtroom

The Benton County Superior Court and the Benton County Clerk is responsible for taking reasonable steps to ensure that LEP, deaf and hearing-impaired individuals have meaningful access to services outside the courtroom. It is the practice of the court to

provide interpreters for court-managed services, programs and operations consistent with state and federal language access mandates

The court, in compliance with federal and state civil rights laws and regulations, shall provide the most appropriate language access service for these programs and services, including qualified interpreters, bilingual staff, and translated materials and information. When the most appropriate language access service is the appointment of a qualified interpreter, the court shall follow the guidelines described for the appointment of interpreters.

As noted in the policy interpretation section earlier, RCW 2.42 requires that courts provide interpreters for persons who are D/HH/DB when they are required to attend court ordered-programs or services. In addition to the provision of qualified interpreters in all proceedings where required, court's bilingual staff may assist with language needs outside of court proceedings. Bilingual staff shall be trained to understand their role, how it differs from the role of an interpreter, and that staff are only used for basic communications.

C. Translated Forms and Documents

The Benton County Superior Court and the Benton County Clerk understand the importance of translating forms, documents, and electronic materials into non-English languages, so that LEP individuals have greater access to the courts' services. Judicial and court staff shall not use web-based applications or software to process or provide translations for LEP individuals.

State forms which have been translated are available at www.courts.wa.gov/forms. Additional informational resources translated into Spanish include:

- [A Guide to Washington State Courts / Guía de los Tribunales del Estado de Washington](#)
- [Self-Represented Persons in District Court / Personas que se representan a sí mismas en el Tribunal de Distrito](#)
- [Self-Represented Persons in Municipal Court / Personas que se auto representan en los Tribunales Municipales](#)
- [Self-Represented Persons in Superior Court Civil Proceedings / Personas que se auto representan en procedimientos civiles en el Tribunal Superior](#)
- [An Introduction to Small Claims Court / Una Introducción Al Juzgado De Demandas De Cuantía Menor](#)

Benton County Superior Court has not translated any local forms and relies solely on translated general pattern forms provided by the AOC. When translated forms are not available, this court may:

- Have an in-person interpreter sight translate the form
- Refer LEP party to a community resource

- Use telephonic interpreting
- Use Interpreter Case – Delayed or Rescheduled Hearing Form translated in multiple languages provided by the AOC

D. Providing Emergency Information to LEP Court Customers

The Benton County Superior Court is responsible for taking reasonable steps to ensure that LEP and D/HH/DB individuals have meaningful access to emergency information should an emergency situation arise. The court provides such information in the following ways:

- There are universally understood emergency signs located in the strategic places throughout the courthouse building
- Emergency exits are clearly marked

VI. TRAINING

The Benton County Superior Court and the Benton County Clerk are committed to providing training for all judicial and court staff members who come in contact with LEP and D/HH/DB individuals in order to ensure the successful delivery of language access services. The court and the clerk will provide staff training on all requirements in this Language Access Plan. Additional training opportunities will include:

- Proper appointment and scheduling of interpreters for all court proceedings and court-managed programs and services
- How to voir dire a non-credentialed court interpreter
- Role of an interpreter, modes of interpreting, and interpreter ethics and professional standards
- Courtroom management when interpreters are used
- Use of remote technologies for interpreting

Training efforts will include an initial training for new staff on the requirements of the current Language Access Plan and an annual training for existing court personnel that addresses any revisions made to the Plan.

Resources and information regarding language access services, policies and procedures and tools for providing language assistance (such as bench cards, language identification guides, brochures, etc.) are available to all court staff and decision makers at:

- Superior Court Administration Office – Administrative Assistant/Interpreter Coordinator
- Superior Court Courtrooms

VII. COMPLAINT PROCESS FOR NON-COMPLIANCE

1. Complaints Against Local Court

This specific complaint process is designed to bring to the attention of the local court, and if necessary, the Interpreter Commission, allegations filed by LEP or D/HH/DB parties that the local court is out of compliance with the its own Language Access Plan, any applicable federal statutes or regulations, state statutory provisions, such as RCW 2.42 or 2.43 and/or any applicable state or local court rules. This is an informal process whereby the Interpreter Commission may be involved in providing consultation and guidance to LEP parties and local courts in resolving and removing barriers to language access services and resources.

LEP and D/HH/DB individuals are encouraged to first file a complaint with the local court using local court customer complaint filing procedures. The local court complaint rules are as follows:

A. Local Court Complaint Process

1. Except in extraordinary circumstances, the complaint must be filed with the Superior Court Administrator within 60 days from the date of the event on which the complaint is based. The complaint must be in writing and must be signed. The complaint must include the following information:
 - a. A clear and brief description of the complaint and any evidence upon which the allegation is based, with relevant supporting documentation. The description and supporting evidence should include relevant facts that support the complaint that the court did not provide language access services;
 - b. If possible, the complaint should identify the section(s) of the court's plan, statutes or regulations alleged to have been violated and the time frame in which the lack of compliance is alleged to have occurred.
2. The Superior Court Administrator will respond to the complainant in writing within 14 days of the receipt of the complaint.

Complaints filed with the Superior Court should be sent to:

Benton & Franklin Counties Superior Court
c/o Superior Court Administrator
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336

B. Complaint Filed with the Court Interpreter Commission

1. Except in extraordinary circumstances, the complaint must be filed with the Interpreter Commission by an aggrieved party within 60 days from the date of the events on which the complaint is based.

Within 3 business days of the receipt of the complaint against a local court, Commission staff will inform complainant, using the contact information provided by complainant, of their option to file their complaint with the Department of Justice and of the need to file such complaint within 180 days from the date of the alleged discrimination.

2. Complaints filed with the Court or the AOC must be in writing and must be signed. The complaint must include the following information:

- a. A clear and brief description of the complaint and any evidence upon which the allegation is based, with relevant supporting documentation. The description and supporting evidence should include relevant facts that support the complaint that the court did not provide language access services;
- b. If possible, the complaint should identify the section(s) of the court's plan, statutes or regulations alleged to have been violated and the time frame in which the lack of compliance is alleged to have occurred;
- c. Disclosure of any other channels the complainant is pursuing, including legal action (optional); and
- d. A statement authorizing the Interpreter Commission to send a copy of the complaint to the court that is the subject of the complaint.

Complaints filed with the Interpreter Commission should be sent to:

Washington State Interpreter Commission
c/o Interpreter Commission Staff
Administrative Office of the Courts
PO Box 41170
Olympia, WA 98504-1170.

Or by contacting Robert W. Lichtenberg at 360-350-5373 by telephone or via email to Robert.Lichtenberg@courts.wa.gov

3. Interpreter Commission Complaint Review

- a. The Interpreter Commission shall determine whether the complaint alleges facts that raise issues relating to the court's compliance with its LAP, federal civil rights laws, RCW 2.42 and/or 2.43 or court rules. This determination shall be made within 10 business days of receiving the complaint. The Interpreter Commission may request additional information from the complainant if appropriate. If the Interpreter Commission concludes that the complaint does not raise issues relating compliance with the LAP, Title VI of the Civil Rights Act, RCW 2.42 and/or 2.43, the matter will be closed and the complainant will be notified of the decision.
- b. If the Interpreter Commission determines that the complaint may raise possible compliance issues, the complaint shall be sent to the court and a response requested. The Interpreter Commission ordinarily will request the presiding judge of the court or their designee to respond within 30 days.
- c. If the response from the court establishes that the court is not out of compliance with respect to the matters raised in the complaint, the Interpreter Commission will close the matter.

If the court's response does not clearly establish that it is operating in compliance with the matters raised by the complaint, the Interpreter Commission may appoint a fact-finder to investigate the issues raised by the complaint and to report on the court's response, if necessary. The complaint, the court's response, and fact-finder's report, if any, shall be referred to the WA Supreme Court Interpreter Commission for any further action deemed necessary by the Commission.

- d. The person making the complaint will be notified promptly regarding the conclusion of the Commission's review.

VIII. PUBLIC NOTIFICATION AND EVALUATION OF LAP

A. LAP Approval & Notification

Benton County Superior Court's and Benton County Clerk's LAP has been approved by the Benton & Franklin Counties Superior Court Presiding Judge, Court Administrator, and County Clerk, and a copy has been forwarded to Washington State's Administrative Office of the Courts Interpreter Program Coordinator. Any revisions to the Plan are to be submitted to the Benton & Franklin Counties Superior Court Presiding Judge, Court Administrator, and County Clerk for approval, and then forwarded to the Interpreter Program Coordinator. Copies of the Benton County Superior Court and Benton County

Clerk's LAP shall be provided upon request. In addition, the court shall post its LAP on its own website at: benton-franklinsuperiorcourt.com.

B. Outreach and Communication of Plan

The Benton County Superior Court and the Benton County Clerk shall inform the public of the existence of the LAP and to this end, the court will:

- Collaborate with local bar associations, justice partners and other relevant organizations to ensure distribution of information.

C. Annual Evaluation of the LAP

The Benton County Superior Court and Benton County Clerk will conduct an annual needs assessment to determine whether changes to the LAP are needed. To this end, the court will continue to communicate on an ongoing basis with stakeholders, including LEP and D/HH/DB persons, attorneys, and the public in the following manner:

- Via email notifications to stakeholders and announcements posted to the Court's website

This assessment will be done by reviewing various areas in which the court provides language access services, taking into consideration, at a minimum, the number of interpreters requested by language in the courts and the identification of emerging changes in the languages spoken or signed within the court's local population as identified by any informational means or by other methods. Elements of the assessment evaluation shall include:

- Assessment of current language needs to determine if additional services or translated materials should be provided;
- Assessing whether staff members adequately understand LAP policies and procedures and how to carry them out; and
- Identification of challenges or trends your court is experiencing with providing language access services.

Any revisions 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. In addition, the Benton County Superior Court and the Benton County Clerk will submit to the AOC a copy of any updated information contained in this LAP within 60 days of its approval by the Superior Court Administrator.

LAP Contact Person

State Contact:

Robert Lichtenberg
AOC Interpreter Program
1206 Quince Street SE
PO Box 41170
Olympia, WA 98504-1170
Robert.Lichtenberg@courts.wa.gov
(360) 350-5373

Local Contact:

Superior Court Administrator
Benton & Franklin Counties Superior Court
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336
509-736-3071

The effective date of this Language Access Plan is April 30, 2018.