

2021

Language Access Plan

BUTLER COUNTY COURT OF COMMON PLEAS
GENERAL DIVISION

**BUTLER COUNTY COURT OF COMMON PLEAS
GENERAL DIVISION
LANGUAGE ACCESS PLAN
July 1, 2021**

I. LEGAL BASIS AND PURPOSE

This document serves as the Language Access Plan (“LAP”) for Butler County Court of Common Pleas General Division to provide services to limited English proficient (“LEP”) individuals 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 to provide a framework for the provision of timely and reasonable language assistance to LEP persons who come in contact with the Butler County Court of Common Pleas General Division.

The Supreme Court of Ohio provides the following advisement:

In order to comply with the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et. seq., the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3789d(c), and 28 C.F.R. Part 42, Subparts C and D, recipients of federal funds must provide meaningful access to limited English proficient (LEP) individuals. *Lau v. Nichols*, 414 U.S. 563 (1974). The U.S. Department of Justice advises that practices, such as charging for interpretation and translation services or seeking recoupment for those costs, significantly impair, restrict, or preclude the participation of LEP individuals in the judicial system and are inconsistent with recipients’ Title VI obligations. For more information, please refer to Guidance from the U.S. Department of Justice to state court justices and administrators' Letter from Assistant Attorney of the Civil Rights Division to Chief Justices and State Court Administrators (Aug. 16, 2010); Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (June 18, 2002).

This LAP is developed to ensure equal access to court services for LEP persons and persons who are deaf or hard of hearing. Although deaf and hard of hearing individuals are covered under the Americans with Disabilities Act (ADA) rather than Title VI of the Civil Rights Act, they have been included in this plan insofar as they relate to our policy of access to justice and equal protection under the law. Protections for individuals with qualifying disabilities includes the following:

- Title II of the Americans with Disabilities Act (ADA) requires public entities, including state and local courts, to provide equal access to their programs and services. 42 U.S.C. §§ 12131-12134.

- Public entities are required to “take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.” 28 C.F.R. § 35.160(a).
- Public entities must “furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.” 28 C.F.R. § 35.160(b)(1).
- These auxiliary aids and services include the provision of “qualified interpreters, notetakers, computer-aided transcription services, written materials, or other effective methods of making aurally delivered materials available to individuals with hearing impairments.” 28 C.F.R. § 35.104.
- To determine “what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities.” 28 C.F.R. § 35.160(b)(2).
- Deaf and hard of hearing people may not be charged for the costs of such auxiliary aids or services. 28 C.F.R. § 35.130(f).

II. NEEDS ASSESSMENT

Data compiled by the Language Services Program on the use of telephonic interpreters in the state of Ohio from 2019-2020 revealed that the most widely used remote languages used in courts statewide are the following:

<u>Language</u>	<u>2019-2020 Avg.</u>
1. Spanish	1,828
2. Nepali	332
3. Arabic	270
4. French	209
5. Swahili	209
6. Somali	184
7. Kinyarwanda	103
8. Mandarin	101
9. Russian	69
10. Vietnamese	55
11. Burmese	35
12. Tigrinya	35
13. Amharic	30
14. Punjabi	25
15. Korean	20

B. Butler County Court of Common Pleas General Division

The Butler County Court of Common Pleas General Division will make every effort to provide services to all LEP and deaf or hard-of-hearing persons in its jurisdiction. The most commonly used languages in Butler County Court of Common Pleas are the following:

- Spanish and American Sign Language

III. LANGUAGE ASSISTANCE RESOURCES

A. Language Access Coordinator

The Butler County Court of Common Pleas General Division has designated the Language Access Coordinator for the Court to be the Manager of Court Administration who reports to the Court Administrator. The Language Access Coordinator is responsible for ensuring that language services are delivered by the Court in accordance with this plan and in accordance with the Rules of Superintendence for the Courts of Ohio, Rules 80 – 89.

The Butler County Court of Common Pleas General Division's Language Access Coordinator is Kristen Plieninger. She can be reached at (513) 785-5721 or plieningerk@butlercountyohio.org. The Language Access Coordinator will address complaints submitted under Section VIII of this Language Access Plan within three (3) business days. In addition to the responsibilities already outlined in this plan, the Language Access Coordinator also has the following responsibilities:

- Track and collect data regarding the use of interpreters, the languages needed, etc.; and
- Assign qualified interpreters, translators and bilingual employees to perform language assistance functions.

B. Interpreters Used in the Courts

Under Ohio law and Supreme Court rules, there are two different instances in which a court must provide an interpreter: in a case or court function and in connection with ancillary services. This distinction is important because the type of interpreter to be provided and the court's responsibilities differ depending on the specific situation.

By statute, Ohio courts must appoint qualified interpreters. Specifically, section 2311.14 of the Ohio Revised Code provides that courts shall provide interpreters due to hearing, speech, or other impairments of a party or a witness to a case.

Additionally, Rule 88 of the Rules of Superintendence for the Courts of Ohio requires that the Butler County Court of Common Pleas General Division appoint an interpreter in a case or court function when a LEP or deaf or hard of hearing individual requests an interpreter or when the court determines the services of an interpreter are necessary for the meaningful participation of the party or witness.

Under Ohio law, foreign language interpreters will be provided at court expense, if the party is found to be indigent. However, in order to comply with the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et. seq., the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3789d(c), and 28 C.F.R. Part 42, Subparts C and D, recipients of federal funds must provide meaningful access to limited English proficient (LEP) individuals. *Lau v. Nichols*, 414 U.S. 563 (1974). The U.S. Department of Justice advises that practices, such as charging for interpretation and translation services or seeking recoupment for those costs, significantly impair, restrict, or preclude the participation of LEP individuals in the judicial system and are inconsistent with recipients' Title VI obligations. For more information, please refer to Guidance from the U.S. Department of Justice to state court justices and administrators' letter from Assistant Attorney of the Civil Rights Division to Chief Justices and State Court Administrators (Aug. 16, 2010); Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (June 18, 2002).

In the Butler County Court of Common Pleas General Division, sign language interpreters will be provided at court expense for all deaf or hard of hearing court parties, witnesses, or jurors in compliance with the ADA.

IV. USE OF INTERPRETERS

A. Determining the Need for an Interpreter

There are various ways that the Butler County Court of Common Pleas General Division will determine whether an LEP or deaf or hard of hearing person needs the services of a court interpreter. First, the LEP or deaf or hard of hearing person may request an interpreter.

Second, court personnel and judges may determine that an interpreter is necessary for the meaningful participation of a party or witness. Many people who need an interpreter will not request one because they do not realize that interpreters are available, they mistakenly think they will have to pay for the interpreter, or because they do not recognize the level of English proficiency or communication skills needed to understand the court proceeding. Therefore, when it appears that an individual has any difficulty communicating, the court staff, judge, or magistrate must provide an interpreter to ensure full access to the court. See Sup.R. 88(A)(2), (B)(1)(b). In legal proceedings, judges and magistrates must make a determination, on the record, as to the need for an interpreter. In court functions and ancillary services, designated staff may make a determination as to the need of an interpreter.

Third, once a party or a witness has been identified as an LEP or deaf or hard of hearing individual, the court will exercise every effort to appoint interpreters in all future related proceedings or court functions. Furthermore, the court will follow the requirements of Sup.R. 88 to appoint an interpreter (see Section C below). If no in-person interpreter is available at the given instance, the court will grant a continuance or if possible and appropriate, in accordance with Sup.R. 88, Appendix J, use the services of a telephonic interpreter.

B. Court Interpreter Qualifications

The Language Services Program of the Supreme Court of Ohio maintains a statewide roster of interpreters who are qualified to interpret in the courts. This roster can be accessed at www.sc.ohio.gov/JCS/interpreterSvcs/certification/rosters/default.asp. Foreign language interpreters on the roster have passed a written examination, attended at least 24 hours of court interpreter training, and have scored within a designated range that measures their language and interpreting skill. Sign language interpreters have also met similar requirements as necessary for national certification through the Registry of Interpreters for the Deaf. The definition of each category of interpreter is set forth in Sup.R. 80-88.

C. Appointment of a Court Interpreter

The Butler County Court of Common Pleas General Division will appoint in-person and telephonic court interpreters in accordance with all criteria set forth in Sup.R. 88 and will ensure that certified court interpreters are used whenever reasonably available.

Pursuant to Sup.R. 88(C), the Butler County Court of Common Pleas General Division will make all reasonable efforts to avoid appointing foreign language interpreters or sign language interpreters if they are compensated by a business owned or controlled by a party or a witness; friend or a family or household member of a party or witness; a potential witness; court personnel employed for a purpose other than interpreting; law enforcement officer or probation department personnel; or would not serve to protect a party's rights or ensure the integrity of the proceedings or have a conflict of interest, real or perceived.

D. Language Services Outside the Courtroom

In accordance with Sup.R. 89, the Butler County Court of Common Pleas General Division shall ensure that LEP individuals and individuals who are deaf or hard of hearing have meaningful access to ancillary services outside the courtroom. LEP individuals and individuals who are deaf or hard of hearing may come in contact with court personnel via the phone, counter, or other means. The Butler County Court of Common Pleas General Division has the following resources to assist LEP individuals and individuals who are deaf or hard of hearing:

- When a court staff member does not know what language the person is speaking, refer to an “I Speak” Language Identification Guide, which is available in 63 languages. The Language Access Coordinator is responsible for distributing cards to all staff and to any new staff. “I Speak” language identification card to assist in determining language need can be found here: <https://www.dhs.gov/xlibrary/assets/crcl/crcl-i-speak-booklet.pdf>
- In order to meet the needs of those who speak less-common languages, court staff may rely on telephonic interpretation or relay services to bridge communication.

V. LOCAL RULE

The Butler County Court of Common Pleas General Division has not adopted a local rule regarding appointment of interpreters.

VI. TRAINING

Ohio courts are committed to providing language access training opportunities for all staff members who come in contact with or may come in contact with LEP individuals and individuals who are deaf or hard of hearing. The Ohio Judicial College and the Language Services Program provide on-going training for court staff regarding issues related to LEP populations, individuals who are deaf or hard of hearing, the use of interpreters, and other language access matters.

The Butler County Court of Common Pleas General Division staff with direct contact with LEP individuals or individuals who are deaf or hard of hearing will receive training on language access, to be coordinated by the Language Access Coordinator. The Language Access Coordinator will ensure that all staff receives updated training regularly and new staff are trained at the time of hire.

VII. PUBLIC NOTIFICATION AND EVALUATION OF LAP

A. LAP Approval

The Administrative Judge of the Court has approved the Butler County Court of Common Pleas General Division LAP. Any future revisions to the plan will be submitted to the Administrative Judge for approval. Copies of the Butler County Court of Common Pleas General Division LAP will be made available on the Court's internal shared computer drive for all Court employees who may have direct contact with LEP individuals or deaf or hard of hearing individuals to access.

B. Notification

The Language Access Coordinator will ensure that any new staff is informed of how to access a copy of the plan. Copies of the Butler County Court of Common Pleas General Division LAP will be provided to the public upon request. In addition, the Butler County Court of Common Pleas General Division will post this plan on its website.

C. Evaluation of the LAP

The Court Administrator or designee will review this plan on an annual basis and make changes based on the review. The evaluation will include review of any complaints received, identification of any problem areas, development of required corrective action strategies, and input from court staff. Elements of the evaluation may include:

- Assessing the number of LEP/deaf hard of hearing persons requesting court interpreters in Ohio courts;
- Assessing current language needs to determine if additional services or translated materials should be provided;

- Assessing whether staff members adequately understand LEP policies and procedures and how to carry them out;
- Reviewing complaints received since the last review; and

Any revisions made to the plan will be approved by the Administrative Judge and will be posted on the Butler County Court of Common Pleas General Division's public website.

VIII. OFFICIAL DESIGNATION OF LANGUAGE ACCESS COORDINATOR AND BACK-UP LANGUAGE ACCESS COORDINATOR.

Language Access Coordinator

Name: Kristen Plieninger

Title: Manager of Court Administration

Address: 315 High Street, 3rd Floor

City, State, Zip: Hamilton, Ohio 45011

Phone: (513) 785-5721

Email: plieningerk@butlercountyohio.org

In the event that the Language Access Coordinator is unavailable, the back-up Language Access Coordinator will serve as the substitute.

Back-up Language Access Coordinator

Name: Nancy Halderman

Title: Administrative Office Service Worker

Address: 315 High Street, 3rd Floor

City, State, Zip: Hamilton, Ohio 45011

Phone: (513) 887-5695

Email: haldermann@butlercountyohio.org