



U.S. Department of Justice

Civil Rights Division

*Federal Coordination and Compliance Section
950 Pennsylvania Ave, NW-NWB
Washington, DC 20530*

CERTIFIED, RETURN-RECEIPT REQUESTED

Mr. Rodney A. Maile
Administrative Director of the Courts
The Judiciary, State of Hawai'i
417 South King Street, Room 206A
Honolulu, HI 96813

Re: Complaint Number 171-21-5
Language assistance services in Hawai'i state courts

Dear Mr. Maile:

This letter completes our formal engagement with the Hawai'i state courts in which we addressed complaints regarding the provision of language assistance services in state court proceedings and operations. From the beginning, your office has been extremely cooperative and responsive to our inquiries and in the fall of 2013, we agreed to move forward jointly to implement a number of action steps to resolve this matter. We appreciate your leadership and that of Chief Justice Recktenwald. In addition, my staff consistently remarks upon the excellent interactions they have had with Debi Tulang-DeSilva and Melody Kubo during this technical assistance and reporting period.

Thank you for your final progress report, dated December 31, 2014, in which you described improvements to state court policies, procedures, and practices that enhance access to the courts for limited English proficient (LEP) individuals. Below we summarize our collaboration and the work we accomplished together.

Background

From September 2012 through September 2013 staff from the Federal Coordination and Compliance Section (FCS) of the Civil Rights Division of the Department of Justice (DOJ) worked with staff from the Hawai'i State Judiciary Office on Equality and Access to the Courts (OEAC) to begin addressing complaints that FCS received regarding the provision of language assistance services in Hawai'i state court proceedings and operations.

In September 2013, FCS sent a letter to your office summarizing our joint efforts and proposing a framework for continued collaboration to achieve our common goal: providing meaningful access to LEP individuals in Hawai'i state court proceedings and operations. In October 2013, we reached a technical assistance agreement that required the Judiciary, through

the OEAC, to: (1) draft and issue a clear court policy regarding the provision of high quality, timely language assistance services free of charge to LEP individuals in all court proceedings and operations; (2) develop and implement consistent and widely publicized procedures describing how to access court language assistance services; (3) improve the Judiciary's complaint system for language assistance concerns; (4) revise the court's interpreter assignment system to ensure that first tier interpreters are called first with lesser qualified interpreters only called when first tier interpreters are not available; and (5) implement oversight measures to ensure that the court interpreter program is implemented in a way that complies with the requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d to 2000d-7 and its implementing regulations, 28 C.F.R. Part 42, Subpart C.

Under the technical assistance agreement, the Judiciary agreed to submit documents for our review and comment and provide two progress reports. The Judiciary also agreed to participate in periodic technical assistance telephone conferences.

Accomplishments

During the technical assistance agreement period, the Judiciary accomplished the following:

1. Court Policy

In accordance with our agreement, the Judiciary improved its policy statement to make clear that court interpreters would be provided free of charge to LEP individuals in all case types during any contact with the Judiciary.

In March 2013, OEAC staff sent us a draft *Proposed Judiciary Policy Statement on Language Access Services*. The Judiciary subsequently adopted and published *Judiciary Policy 2013-1* stating that:

“The Hawai'i State Judiciary is committed to providing meaningful access to court processes and services to persons with limited English proficiency. The Judiciary shall reasonably provide competent, timely, and free language assistance for Judiciary-related business. The Judiciary shall reasonably notify the public of the Judiciary's language assistance commitment.”

While we recognized the progress represented by this policy statement, we asked the Judiciary to provide greater clarity so that courts and court staff would not inadvertently run afoul of federal law by refusing to provide competent and timely language assistance services free of charge in all case types, to all persons involved in a case, and in court operations outside of the courtroom. We provided examples of clearer policies from other states.

In May 2014, the Judiciary issued Hawai'i Policy Statement #12, which states:

The Hawai'i State Judiciary is committed to providing meaningful access to court processes and services to persons with limited English proficiency. In all case

types, the Judiciary shall reasonably provide, free of charge and in a timely manner, competent court interpreters for parties, witnesses and individuals with a substantial interest in a case. It shall also provide language assistance services at points of contact with the Judiciary, including over-the-counter and over-the-telephone encounters for all Judiciary-related business. The Judiciary shall notify the public of the Judiciary's language assistance commitment.

Hawai'i Judiciary Policy #12 is prominently displayed on the Judiciary's new "Language Access" tab on the Judiciary's homepage.¹ As described below, the Judiciary then undertook additional outreach to ensure awareness of, and compliance with, the policy.

2. Accessing Court Language Assistance Services

The Judiciary agreed to implement an awareness campaign to increase the public's knowledge about how to access a court's language services program. When FCS initially spoke with your office in the fall of 2012, we discussed the need for the Judiciary to have multilingual information on its website and in hardcopy. In the spring of 2013, your office provided updates on the Judiciary's Language ID cards that an LEP person can print and show to Judiciary staff when he/she comes to court. The card asks the LEP person to write his/her name and language. The card also asks Judiciary staff to find someone who speaks the indicated language written on the card so the LEP person can communicate with the court. According to your staff, a review of data on the number of "hits" the ID cards receive on the Judiciary's website indicates a significant number of people have accessed this resource.

We then provided feedback on the language of the Judiciary's proposed multilingual court interpreter notification brochures entitled "How to Request an Interpreter" and "Tips on Going to Court" as well as on how the Judiciary should share these new resources with LEP populations and their representatives. The Judiciary made the brochures available on its website last spring. Judiciary trainers use information contained in the brochures in trainings for Judiciary staff, the Hawai'i State Bar Association, and the Legal Aid Society of Hawai'i, and the Judiciary collects and reports on the number of "hits" the brochure receives in order to assess its effectiveness.

In April 2014, the Judiciary launched enhancements to its website to make it easier for the LEP community and the general public to access important information about the Judiciary's language assistance services. Specifically, the Judiciary added a new Language Access tab located at the top of the Judiciary's main webpage that includes a drop down menu with links to the following information about the Judiciary's program in one location:

- Language Assistance Policy,
- Language Access Services,
- List of Interpreters
- Request a Court Interpreter,
- Sign Language Interpreters,

¹ http://www.courts.state.hi.us/services/language_assistance_services.html

- Use a Court Interpreter,
- Become a Court Interpreter, and
- Contact Information.

This information can also be found by clicking on “Services” then “Language Assistance” at the top of the Judiciary’s main webpage. By clicking on either the Language Access tab or the Language Assistance link, an LEP person will be taken to the Language Assistance Services main webpage.

Importantly, the Judiciary has added links on its main webpage to a list of fourteen languages the Judiciary has identified as being most frequently encountered by court staff. In May 2014, the Judiciary launched fourteen language-specific webpages in: Cantonese, Chuukese, Ilokano, Japanese, Korean, Kosraean, Mandarin, Marshallese, Pohnpeian, Samoan, Spanish, Tagalog, Tongan and Vietnamese. By clicking on a language, an LEP user is taken to a language-specific webpage. These webpages compile all information that the Judiciary has translated in a particular language in one location. For instance, the Chuukese language webpage contains the statement, “You have the right to an interpreter at no cost to you” at the top of the webpage, a link to the Language ID card and instructions on what to do with the card, and links to the Judiciary’s brochures (e.g., How to Request an Interpreter at the Hearing, How to Use a Court Interpreter, Tips on Going to Court, and Self-Help Centers). The Judiciary routinely monitors the number of “hits” of its language access services online resources to better understand the language needs of LEP court users, and to provide better services.

In July 2014, the Judiciary also made hard copies of its language access related brochures available through Self Help Centers, Access to Justice Rooms serving self-represented litigants, and several community partners (e.g., Inter-Agency Council on Refugee Immigrants, Hawai’i Immigrant Justice Center, and Legal Aid Society of Hawai’i). To further provide consistent and widely publicized information on how to request and work with an interpreter, the Judiciary regularly meets with the Hawai’i Access to Justice Commission, the Commission’s Committee on Overcoming Barriers to Access to Justice, Hawai’i State Office of the Attorney General, Hawai’i State Office of Language Access, William S. Richardson School of Law, University of Hawai’i at Manoa, Hawai’i State Bar Association, and the Hawai’i Language Roadmap Initiative.

Throughout the review period, FCS welcomed the opportunity to discuss with your staff options for making the language program more visible and better understood. FCS also encouraged the Judiciary to include the expansion and updating of translations as a general budget item when the grants for translation of vital documents and development of Language ID cards and program brochures run out.

3. Language Assistance Complaint System

The Judiciary has made it easier for court users to raise concerns about the provision of language services. For instance, last spring, the Judiciary improved its feedback link on the homepage of its website to directly link to a form that provides an option for submitting language access complaints. The website also includes contact information for OEAC on its Language Access main webpage and on the language-specific webpages. The Judiciary has also agreed to provide its own Judiciary-specific complaint form in the most commonly requested non-English languages online and in hard copy.

4. Court Interpreter Assignment System

In order to make the Judiciary's system of assigning interpreters more transparent and to ensure that LEP court users obtain language assistance from the highest qualified interpreters reasonably available, the Judiciary refined its court interpreter assignment policy and made a concerted effort to educate the public and train local court coordinators. During the technical assistance period, the Judiciary educated the public about the assignment process and conducted statewide mandatory language access trainings for judicial staff on the Judiciary's assignment process. In addition, the Judiciary has provided staff with step-by-step procedures and an easy-reference card. The Judiciary has committed to providing additional materials and training for judges in 2015.

Using a DOJ grant, OEAC provided Interpreter Skills Building workshops focused on developing skills and building competency of state court interpreters. Your staff has identified a continuing goal of elevating the competency level of all interpreters working in Hawai'i State courts and training judges on the court interpreter assignment system. We appreciate your awareness of these issues and your commitment to continue working to improve in this area; we are available to provide additional technical assistance as needed.

5. Title VI Accountability System

Lastly, as we agreed, the Judiciary added compliance and oversight duties to those of the Program Director of OEAC. The duties of the Language Access Coordinator include overseeing implementation and evaluation of the Language Access Plan (LAP); revising the LAP periodically; responding to inquiries, comments, and complaints about the LAP and the provision of language services; and training Judiciary staff on the LAP.

Conclusion

In light of the improvements the state has made, we are prepared to formally close the Civil Rights Division's review of the above-referenced matter upon receipt of your acknowledgement, memorialized below, of your continuing commitment to compliance with Title VI, including the requirement to provide interpretation in court proceedings, free of charge to LEP individuals, and to ensure meaningful access to court operations. Please note that this letter addresses only the matters discussed in this correspondence and should not be construed to cover any other issue regarding the Hawai'i State Judiciary's compliance with Title VI, the Safe Streets Act, or any other law enforced by DOJ. Nor does the closing of our review affect any rights that complainants may have to file a private lawsuit in a court of law. Nothing in this letter prevents DOJ from initiating an investigation or compliance review in the future, if such action is warranted.

In closing, as expressed in your staff's email correspondence dated February 2, 2015 we are happy to continue to work with the Hawai'i State Judiciary in an informal manner to discuss future implementation issues in Hawai'i state courts.

If you have any questions regarding this letter, please contact Ms. Kevonne Small, the Civil Rights Division attorney assigned to this matter at (202) 616-9692 or Kevonne.small@usdoj.gov, or Principal Deputy Chief Christine Stoneman, at (202) 616-6744 or Christine.Stoneman@usdoj.gov.

Sincerely,

Deeana Jang

3/24/15

Deeana Jang
Chief
Federal Coordination and Compliance Section
Civil Rights Division

Date

As the Civil Rights Division, United States Department of Justice, closes its review of the Hawai'i state courts' provision of language assistance services in state court proceedings and operations, Complaint Number 171-21-5, the Hawai'i Judiciary agrees to continue its commitment to compliance with Title VI and implementing regulations, including the requirement to provide interpretation in court proceedings, free of charge to LEP individuals, and to ensure meaningful access to court operations.

Rodney A. Maile

MAR 17 2015

Rodney A. Maile
Administrative Director of the Courts
The Judiciary, State of Hawai'i

Date

cc: Ms. Florence T. Nakakuni
United States Attorney
District of Hawai'i