

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

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ANDREW TUFT
*Acting Director, Office of Access &
Inclusion
State Bar of California*

August 10, 2018

Trial Court Budget Advisory Committee
Judicial Council of California
455 Golden Gate Ave
San Francisco, CA 94102

Dear Judge Conklin and members of TCBAC:

The California Commission on Access to Justice, “Access Commission”, writes to provide comment as part of the public comment period, to the plan regarding funding for the court interpreters program. Thank you for the opportunity to make these comments.

The 26 member Access Commission, comprise of lawyers, judges, as well as academic, business, labor and community leaders, has worked for 20 years to improve access to civil justice for Californians living on low and moderate incomesⁱ. The Commission frequently works with the State Bar, the Judicial Council, and other stakeholders to preserve and expand access to justice in Californiaⁱⁱ.

The California Commission on Access to Justice strongly urges the Trial Court Budget Advisory Committee to recommend to the Judicial Council that any potential shortfall in Court Interpreters Program funding for fiscal year 2018-19 be covered by a one-time allocation from the Trial Court Trust Fund. Any option for addressing this temporary funding issue that would withhold reimbursement to trial courts for court interpreter services in any case type now covered by the expansion of interpreter services into civil and family law would be a significant step backwards in what has been a successful effort to increase access to one of our state’s most vulnerable populations.

Over the last few years, this expansion of court interpreter services has led to real language access for the 7 million limited English speakers in our state. According to the latest report from the Language Access Plan Implementation Task Force, 51 of our 58 trial courts report that they are now providing interpreter services in all case types and that the remaining 7 courts are well on their way to doing so. This means that for the first time in history, the vast majority of our LEP residents can meaningfully participate in the court process. These litigants can now be heard when in court facing eviction from their home, the loss of a child in custody proceedings and in so many more potentially life changing legal actions. This access must not be jeopardized or disrupted even temporarily.

Letter to TCBAC/ August 10, 2018

That is certainly what would happen if reimbursement for these essential court interpreter services were discontinued. If reimbursements were ended, trial courts would have little choice but to stop providing interpreters and stop providing access to LEP court users. We are very concerned that once this access is lost, it will be very difficult to restore. A one-time allocation from the Trial Court Trust Fund to cover any potential funding shortfall in this fiscal year (Option 1) is the only option that will preserve language access to our courts. It should be the option that this committee chooses to recommend to the Judicial Council.

The Commission is grateful for the opportunity to comment on the impact of interpreter funding in the California courts.

Very Truly Yours,



Hon. Mark A. Juhas
Chair, California Commission on Access to Justice

ⁱ The CCAJ includes appointees from the California Governor, the Attorney General, the President pro Tem of the State Senate, the Speaker of the California Assembly, the California Judicial Council, California Judges Association, the State Bar of California, Consumer Attorneys of California, California Chamber of Commerce, California Labor Federation, League of Women Voters, the California Council of Churches, the Council of California County Law Librarians, and the Legal Aid Association of California.

ⁱⁱ The Access Commission's comments shall not be imputed to or be deemed to represent any of the Access Commission's appointing authorities, including but not limited to the State Bar of California.

Superior Court of California

COUNTY OF CONTRA COSTA
725 COURT STREET
P.O. BOX 911
MARTINEZ, CA 94553-0091



August 13, 2018

Trial Court Budget Advisory Committee

Re: August 14, 2018 Telephonic Meeting on Interpreter Funding

Attention: Brandy Sanborn

I'd like to start by thanking the committee for allowing me to speak to you on behalf of the Language Access Implementation Task Force at your recent meeting in which you were considering how to address the very real concerns we face as a result of the potential shortfall in the Interpreter Fund for this fiscal year. Staff has done an excellent job of exploring all of the options for addressing this temporary funding glitch. As Chair of the Task Force's Budget and Monitoring Subcommittee, I urge you to choose Option 1. It is the only means for addressing this short-term problem that does not discontinue language access services to the 7 million limited English speakers in our state. As Zlatko Theodorovic, Judicial Council Director of Budget Services, indicated at your recent meeting, there are adequate funds in the Trial Court Trust Fund to cover any projected shortfall in this fiscal year. There is no reason to jeopardize all of the ongoing, historic efforts of our trial courts to provide true language access to millions of people who have, until recently, been shut out of our court system.

The latest statistics show that through the hard work and efforts of those in our trial courts, these services certainly have been successfully implemented. As of the beginning of this year, 51 of our 58 trial courts report that they are providing interpreter services for all eight priority levels set out in Evidence Code Section 756 and the remaining 7 courts are well on their way to doing so. Language services are now, for the first time, being provided in court for vulnerable litigants in Unlawful Detainer, Guardianship, Conservatorship, Elder Abuse, Civil Harassment, Family Law, Debt Collection and all other civil cases. This is an amazing accomplishment, one that all of us justifiably celebrate. We certainly should not consider taking action to dismantle it.

And that is what I fear would happen if you choose any option that would discontinue, even temporarily, these popular and essential interpreter services. After many years of inadequate trial court funding, our local courts are fiscally stressed beyond limit. Even the prospect of a potential lack of reimbursement from the Interpreter Fund will force CEO's across the state to take immediate action to avoid another budget setback. Members of our Task Force are already fielding concerned inquiries from the trial courts about whether to preemptively discontinue interpreter services in Civil, Family and the other recently added case types, based only on the fact that this committee is considering a recommendation to halt reimbursement for such services. One can only imagine what will happen if that recommendation is actually made.

Moreover, once these essential language services are stopped, it will be extremely difficult to regain the trust of the trial courts to reinstate them out of fear that funding will be halted again in the future. This should not happen, particularly because we have been so successful in obtaining funding for these interpreter services. The 2016-17 state budget included an ongoing appropriation of \$7 million to improve access for LEP court users by providing interpreter services in civil proceedings. This fiscal year, we obtained an additional one-time appropriation of \$4 million in order to continue to expand the availability of interpreter services. And we have every reason to believe that the Legislature and the Governor will continue to authorize additional funding for these essential and popular services in the future.

Finally, I'd like to highlight one more important reason why this committee should not recommend discontinuing reimbursement for interpreter services. For the last several years, the legislation establishing the Interpreter Fund prohibited its use for reimbursing trial courts for the cost of administrators such as interpreter coordinators unless those managers were certified or registered interpreters. Since very few courts met this requirement, for the last several years few were reimbursed from the fund. That restriction was removed last year, meaning that all of the 58 trial courts can now seek reimbursement from the fund for the cost of these administrators. While this funding to the trial courts is certainly needed, it is a new expense from the Interpreter Fund that is projected to deplete the Fund by more than \$2.6 million this fiscal year. These reimbursements are not being considered for reduction as a means of addressing the potential temporary shortfall this fiscal year. I can think of no reason that would justify a significant expansion in paying for administrators, while calling for a severe cutback of direct services in the courtroom that effect the lives of so many people.

As I indicated at your recent meeting, all of us involved with the process of interpreter funding feel confident that now that the ongoing balance in the Interpreter Fund has been depleted, the Governor and the Legislature will be very receptive to a significant increase in the Fund for the next fiscal year. But first we need to get through the rough waters of this transitional fiscal year. The only way to do that without expense to the trial courts or cuts to essential and necessary interpreter services is to choose Option 1. I urge you to recommend to the Judicial Council that Trial Court Trust Fund reserves be allocated on a one-time basis.

A handwritten signature in black ink, appearing to read 'SKA', with a horizontal line extending from the end of the signature.

Steven K. Austin

Judge of the Superior Court

From: Hayashi, Judge Dennis, Superior Court <dhayashi@alameda.courts.ca.gov>
Sent: Monday, August 13, 2018 11:12 AM
To: TCBAC <TCBAC@jud.ca.gov>
Subject: Allocation Methodology for Interpreter Program Shortfall

Members of the Trial Court Budget Advisory Committee:

As a member of the Language Access Task Force, I am writing in support of your adoption of proposed Option 1 to address any projected shortfall in the budget for the Court Interpreter Program. As a civil trial judge in Alameda County, my court routinely handles litigation matters involving parties who have little, if any, English speaking ability. This is particularly true when it comes to languages other than Spanish. Any discontinuance of reimbursement for interpreter services would be a serious blow to our commitment to guaranteeing equal access to judicial services. In this light, only Option 1 would allow us to continue this critical service.

Thank you for your consideration.

Dennis Hayashi
Judge, Superior Court of Alameda County

From: Friedman, Corey@DIR <CFriedman@dir.ca.gov>

Sent: Monday, August 13, 2018 10:33 AM

To: TCBAC <TCBAC@jud.ca.gov>

Subject: Public Comment on Allocation Methodology for Interpreter Program Shortfall, August 14, 2018
Agenda Item

Dear Trial Court Budget Advisory Committee,

I understand that there has been a shortfall in funding for interpreters. I urge you to please continue reimbursing these costs, without any suspension in payments, as proposed in Option 1. As an attorney whose work has given me an appreciation of interpreters' necessity and a co-chair of the Legal Services Trust Fund Commission, which funds legal services providers throughout the state, I hope the Committee will do everything in its power to protect litigants' access to interpretation services.

Please note that I am submitting this public comment as an individual, and not on behalf of my employer, the Legal Services Trust Fund Commission, or any other entity.

Any action that will disrupt essential services to litigants should not be considered.

Thank you for your time.

yours,

Corey N. Friedman

Counsel, Division of Occupational Safety & Health
State of California | Department of Industrial Relations
1515 Clay Street | Suite 1901 | Oakland | California | 94612
Telephone: 510.286.7348 | Fax: 510.286.7039

"The Unified Voice of Legal Services"



August 13, 2018

Trial Court Budget Advisory Committee
Attn: Ms. Brandy Sanborn
Judicial Council of California
455 Golden Gate Avenue
San Francisco, California 94102-3688
tcbac@jud.ca.gov

Re: Public Comment on Allocation Methodology for Interpreter Program Shortfall, August 14, 2018 Agenda Item 1

To Members of the Trial Court Budget Advisory Committee:

I am writing on behalf of the Legal Aid Association of California (LAAC) to provide public comment on methodology for allocating a structural shortfall in Court Interpreter Program beginning in 2018-2019.

Founded in 1983, LAAC is a nonprofit organization created for the purpose of ensuring the effective delivery of legal services to low-income and underserved people and families throughout California. LAAC is the statewide membership organization for almost 100 legal services nonprofits in the state. In this capacity we work closely with stakeholders, including members and staff of the Judicial Council, to preserve access to justice in California.

We want to thank the Judicial Council for its support of language access for all in the California court system. Over the last few years, the expansion of court interpreter services in our courts has led to access to justice for the millions of Californians with limited English proficiency. We applaud the commitment and vision of the Judicial Council to this work. Never before have so many Californians had the opportunity to participate in the court process in a meaningful way, and we commend the hard work that made that a reality.

We have reviewed the options presented to your Committee by Judicial Council staff (August 13, 2018 Report from Catrayel Wood, Senior Budget Analyst) to address the projected shortfall in the Court Interpreter Program in the current fiscal year. ***We urge the Committee to adopt Option 1 and recommend a one-time allocation from the Trial Court Trust Fund.***

The other options before you would disrupt court interpreter services to litigants by withholding reimbursement to trial courts. If reimbursements are discontinued, trial courts would have no choice but to stop providing interpreters and thereby stop providing access to LEP court users. Many litigants, as legal aid programs see firsthand, enter the court system to address life-changing problems, like foreclosure, domestic violence, health access, wage theft, civil rights violations, and housing issues. As a result of the expansion of court interpreter services, people facing these problems can now meaningfully participate in the court process. Disrupting these services will undoubtedly harm the countless litigants that will be forced to face these serious problems without a voice.

Any action that will disrupt essential services to litigants should not be considered. Denying meaningful access to the courts to some of our state's most vulnerable people would be an affront to the invaluable progress California courts have made in language access.

California leads the nation in providing meaningful language access. An allocation from the Trial Court Trust Fund (Option 1) is the only option that will preserve language access to the courts. For that reason, the Legal Aid Association of California asks that this Committee recommend Option 1 to the Judicial Council. LAAC writes on behalf of itself and its nearly 100 member organizations; many of those organizations have chosen to additionally sign on below to express their strong support of Option 1 and preventing any lapse in court interpreter services.

Thank you for your consideration of our comments,



Salena Copeland
Executive Director
Legal Aid Association of California

Joined by:

Asian Americans Advancing Justice - Asian Law Caucus
Asian Americans Advancing Justice - Los Angeles
Bay Area Legal Aid
Bet Tzedek
Centro Legal de la Raza
Child Care Law Center
Community Legal Services in East Palo Alto
Disability Rights Education and Defense Fund
Disability Rights Legal Center
Family Violence Appellate Project
Impact Fund
Law Foundation of Silicon Valley
Legal Aid Foundation of Los Angeles
Legal Aid of Marin
Legal Services for Prisoners with Children
Legal Services of Northern California
Legal Aid Society of Orange County & Community Legal Services in Southeast Los Angeles
Legal Aid Society of San Diego
National Housing Law Project
Neighborhood Legal Services of Los Angeles County
Public Interest Law Project
Public Law Center
Watsonville Law Center
Worksafe



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HON. TANI G. CANTIL-
SAKAUYE
*Chief Justice of California
Chair of the Judicial Council*

MR. MARTIN HOSHINO
*Administrative Director,
Judicial Council*

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COMMITTEE STAFF
*Ms. Kyanna Williams
415-865-7911*

August 13, 2018

Attn: Trial Court Budget Advisory Committee

Public Comment from the Advisory Committee on Providing Access and Fairness: Regarding the August 14, 2018 Meeting of the Trial Court Budget Advisory Committee – Agenda item 1: Allocation Methodology for Interpreter Program Shortfall

The Advisory Committee on Providing Access and Fairness submits the following comments:

The Advisory Committee on Providing Access and Fairness (PAF) is charged with making recommendations for improving access to the judicial system, fairness in the state courts, diversity in the judicial branch, and court services for self-represented parties. An important aspect of PAF's work is making court processes more fair, understandable, and accessible to everyone.

PAF recognizes that a litigant's ability to understand court proceedings and effectively communicate in those proceedings is a critical aspect of access to justice. Having access to skilled interpreters helps ensure that litigants with limited English proficiency can meaningfully participate in their court proceedings.

In recent years, the judicial branch and the legislature have worked together to improve access to court interpreter services. The legislature prioritized interpreter services for those case types that most frequently involve people of limited means and self-represented litigants. These case types involve litigants who may not know that they need to bring an interpreter when the court does not provide one and are unlikely to have the resources to locate and pay for interpreter services on their own. The legislature's order of priority is:

- Priority 1: Protective order in family law case with domestic violence claim, elder or dependent adult case involving physical abuse or neglect, or civil harassment case under CCP § 527.6(w).
- Priority 2: Unlawful detainer

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- Priority 3: Parental termination
- Priority 4: Conservatorship / guardianship
- Priority 5: Custody / visitation
- Priority 6: Elder/dependent adult abuse not involving physical abuse or neglect or other civil harassment under CCP § 527.6
- Priority 7: Other family law
- Priority 8: Other civil cases

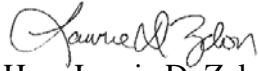
PAF members are now deeply concerned about two of the alternative proposals before the Committee to address the projected \$3.4 million shortfall in the Court Interpreter Program (CIP) budget for the current fiscal year. In the report titled, "[Allocation Methodology for Interpreter Program Shortfall](#)", Judicial Council Budget Services staff lay out three different options for addressing this projected budget shortfall. PAF supports option 1 because it protects litigants by continuing to ensure that they have access to court interpreters in civil cases. PAF, however, cannot support options 2 and 3 because they would result in either discontinuance of all civil interpreter services in some courts, or uncertainty as to availability in others, in all or some of the priority categories identified by the legislature. Options 2 and 3 would also shift the burden of the CIP budget shortfall to individual trial courts and result in unequal access to court interpreter services throughout the state.

For the reasons stated above, PAF strongly opposes options 2 and 3 as outlined in the allocation methodology report. PAF encourages the Trial Court Budget Advisory Committee to vote in favor of option 1, as it is the only option proposed that would protect litigants and ensure that civil court proceedings are fair and accessible to those with limited English proficiency.

Thank you for considering these recommendations from our committee.

Sincerely,


Hon. Kathleen E. O'Leary
Presiding Justice
Court of Appeal
Fourth Appellate District, Division Three


Hon. Laurie D. Zelon
Associate Justice
Court of Appeal
Second Appellate District, Division Seven

KEO/LDZ/KW/cb

Aug. 13, 2018

Trial Court Budget Advisory Committee
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA, 94102
tcbac@jud.ca.gov
Attn: Ms. Brandy Sanborn

Re: Allocation Methodology for Interpreter Program Shortfall

Esteemed Members of the Trial Court Budget Advisory Committee,

The California Federation of Interpreters, Local 39000, the professional organization and union representing court interpreters statewide, urges you to protect meaningful language access for Limited English Proficient (LEP) court users and not discontinue reimbursement to courts for interpreters in civil matters.

As you consider recommendations to address the expected shortfall in the court interpreter fund, we respectfully request that you chose option 1, which recommends that the Judicial Council approve a one-time Trial Court Trust Fund allocation to make up for this gap.

The other two options up for consideration would weaken courts' existing obligation under state and federal law to provide meaningful language access to LEP court users in criminal and civil cases. In turn, LEP court users would be prevented from obtaining justice for extremely sensitive and life changing matters such as the custody and visitation of their children, termination of parental rights, or losing their housing.

Consider the ramifications that suspending payment for civil matters would cause. LEP litigants would be forced to return to using children, laypersons, or relatives who aren't impartial to interpret complicated cases. Court caseloads would swell as LEP court users, who are often low income and cannot afford to pay for a certified or registered, would have to return multiple times if no qualified interpreter is available.

Going forward, we urge all involved in this process to ensure judicious use of interpreter funding through efficiencies rather than punishing vulnerable court users.

For example, additional funds should be sought for the predictable cost increase stemming from this year's change in the budget bill allowing interpreter coordinators who are not certified and or registered interpreters to be reimbursed from the court interpreter fund.

Additionally, costs for contract interpreters have been growing over the last few years not just because of civil expansion but because of compensation. More and more courts are paying not just the \$418 federal rate — up from the \$282 state per day rate — but also travel time, mileage or transportation reimbursement and lodging for interpreters brought from one part of the state to another. Expenditures for contract interpreters grew by more than \$4 million — the equivalent to a 20% jump — from fiscal year 2015-2016 to fiscal 2016-2017.

Meanwhile, costs for employee interpreters increased by little more than 2% in the same time period, a fact that points out that not as much money is being invested into the steady workforce that handles most of the LEP cases.

We are encouraged that the Language Access Plan Implementation Task Force has been and continues to work in securing the necessary funding so that language services are not rolled back. CFI stands ready to collaborate on this common goal. California has made significant progress in the common goal of language access, let's not take a step back.

Respectfully,



Anabelle Garay
CFI representative



Janet Hudec
Certified Court Interpreter
Judicial Council LAPITF Member
Judicial Council Court Interpreter Advisory Panel Member

AG: mg
OPEIU #537 afl-cio, clc