Recommended Guidelines and Minimum Specifications for Video Remote Interpreting (VRI) for Spoken Language–Interpreted Events

CALIFORNIA JUDICIAL BRANCH

MAY 21, 2021

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The *Recommended Guidelines and Minimum Specifications for Video Remote Interpreting (VRI) for Spoken Language–Interpreted Events* was adopted by the Judicial Council on May 21, 2021. This document was prepared under the direction of a working group of the Information Technology Advisory Committee, which reviewed and updated the guidelines in fiscal year 2020–21. These guidelines were adapted from the *Strategic Plan for Language Access in the California Courts*, which was adopted by the Judicial Council on January 22, 2015. The guidelines were last revised in March 2019, following a VRI pilot conducted in 2018.

For electronic copies of these guidelines and for more information, visit *www.courts.ca.gov/VRI.htm*.

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Introduction

California is home to a very diverse population, with over 200 languages and dialects spoken within its borders. Approximately 7 million of its residents are *limited English proficient* (LEP), meaning they read, write, speak, or understand English less than very well. Federal laws, such as Title VI of the Civil Rights Act of 1964 and Executive Order No. 13166, 65 Federal Register 50121 (Aug. 16, 2000), ensure that these individuals have meaningful access to any program or activity receiving federal financial assistance by prohibiting discrimination on the basis of race, color, or national origin. Accordingly, LEP individuals must be able to access the court system in a meaningful manner.

To address this need, in January 2015, the Judicial Council adopted the *Strategic Plan for Language Access in the California Courts* (Language Access Plan, or LAP), which provides the foundational components for ensuring that all LEP court users in the state have equal access to justice and presents guidance and recommendations to help courts expand their language services at the local court level. Two main components of the LAP are to increase (1) qualified interpreter services in any court-ordered, court-operated proceeding; and (2) the availability of language access services to all court users. The use of technological solutions to expand such services is a component of this plan and is specifically addressed by Goal 2 of the LAP, which highlights the need to incorporate technology to provide access in courtroom proceedings through the provision of remote interpreting and the establishment of recommended minimum technology specifications to facilitate its use.

About VRI

To achieve the goal of universal provision of interpreters in judicial proceedings, the LAP notes that appropriate use of technology must be considered. From the use of various forms of remote interpreting (telephonic or video) to the development of multilingual audiovisual material, technology will, by necessity, be part of any comprehensive solution to the problem of lack of language access in judicial proceedings.

The use of remote interpreters in courtroom proceedings can be particularly effective in expanding language access. To increase LEP court user access to qualified interpreters, the LAP allows for the proper use of video remote interpreting (VRI) in the courts:

> Recommendation 12. The use of in-person, certified and registered court interpreters is preferred for court proceedings, but courts may consider the use of remote interpreting where it is appropriate for a particular event. Remote interpreting may only be used if it will allow LEP court users to fully and meaningfully participate in the proceedings.

The LAP also notes that the quality of interpretation is of paramount importance and should never be compromised. In response to the COVID-19 pandemic in 2020, many California courts implemented remote video solutions to ensure access to justice and protect the health and safety of court staff, court users, and judicial officers.[1] Today, courts have access to a wide variety of technology solutions that enable remote access to court proceedings, including offsite location of the interpreter, LEP party, jail staff, judge, and attorney. In both physical and virtual courtrooms, the quality of the interpretation continues to be of paramount importance and should never be compromised. If the effectiveness of the communication is in no way compromised and certain controls are in place, remote interpreting provides an important and viable way in which to provide LEP court users with immediate access to a qualified interpreter. As described in this document, remote interpreting allows LEP court users to fully and meaningfully participate in court proceedings when the court meets appropriate minimum specifications and provides training and resources for court staff and court users.

Among the benefits of remote interpreting is the facilitation of the prompt availability of language access for litigants by providing certified and registered interpreter services with less wait time and fewer postponements, saving court users and the courts valuable time. In addition, having qualified interpreters more readily available through remote interpreting can decrease the use of less qualified interpreters, dismissals for failure to meet court deadlines, and the frequency of attorneys or parties waiving interpreter services or proceeding as if the LEP person is not present, to avoid delays. By decreasing interpreter travel among venues and increasing the number of events being interpreted by individual interpreters, remote interpreting allows more LEP litigants to be served, in more areas, utilizing the same personnel and financial resources, thereby greatly expanding language access.

Remote access is not limited to providing interpreter services. It is a means to provide a variety of services in locations that are not near a courthouse or not easily accessible. For example, where satellite courts have been closed or where jails are located some distance from courthouses, remote technology has allowed courts to provide access and service to those locations. It is imperative that courts, and the branch as a whole, include remote access technology solutions in language access planning efforts.

Any introduction of remote interpreting in the courtroom will have to include appropriate training and education—in advance—for all personnel who will be involved in the court proceedings. The Judicial Council's Language Access Services is working with the National Center for State Courts to develop VRI training modules and materials for courts, interpreters, and LEP court users to support VRI and these guidelines. Training and materials will be

[1] In May 2020, the Judicial Council's Language Access Services developed a handout, *You and Your Court Interpreter: Staying Safe During COVID-19*, to offer suggestions to ensure the safety of interpreters and LEP court users during the pandemic. It is available in English and other languages at *www.courts.ca.gov/42863.htm*.

developed with experts, including court interpreters. In conjunction with trainings, material presenting best practices for VRI events will also be developed, shared, and periodically updated.

Judicial officers, interpreter coordinators, and other court staff will need to know how to use the available technology, including how to launch the programs and how to use the technology during remote court proceedings. Judicial officers in particular will have to understand the logistics of the remote interpretation process to ensure that they are managing the courtroom and the proceedings appropriately. Suggested language for the judicial officer when considering objections related to remote interpreting is provided in these guidelines. Similarly, interpreters will need training on the use of the technologies and platforms used by the court, and on ways to ensure that audio is clear, to adequately provide accurate and effective interpretation. As appropriate, attorneys, bailiffs, sheriffs, and jail staff must also receive training and instructional material on the use of adopted platforms and technologies. Likewise, court staff must be trained and available to troubleshoot and address any technical problems with the equipment as the need arises.

LEP court users should also be informed of how to use the court's technologies and platforms (e.g., via translated instructions and recorded online orientations). The LEP court user should be advised of the options for participation (e.g., telephone, Wi-Fi) and the minimum technological specifications required to support those options. The court should make alternative solutions available (e.g., telephonic interpretation or workstations at the court) if the LEP court user does not have access to the minimum technology necessary for effective virtual participation as described in this document.

Any plan to create a statewide system of remote hearings that use VRI and other technologies must be conscious of the digital divide. *Digital divide* refers to the entrenched socioeconomic, geographic, and language-based gap that, until resolved, will make participation in court proceedings convened digitally difficult or impossible for many Californians. Although the digital divide should not dissuade courts from increasing the use of remote technologies, it is essential to be aware that access to technology is generally less available to people who face other obstacles. Courts must be willing to work with LEP Californians and other vulnerable litigants to allow them to participate.

About These Guidelines

These are suggested guidelines for remote interpreting for spoken language based on current best practices and, as such, should be subject to updating and revision by the Judicial Council to accommodate advances in technology that will support the delivery of interpreter services and help ensure quality communication with LEP court users. The guidelines do not attempt to represent rules or standards, but rather provide general guidance, including key considerations and recommended minimum technology specifications for VRI for spoken language events. The

specifications are designed to allow flexibility for courts, support physical and virtual courtrooms, and allow for future advances in technology.

Considerations and Guidelines for VRI in Court Proceedings

When using VRI, meeting minimum technology specifications and providing training are critical. Before selecting VRI for a particular courtroom event, the court should adhere to additional considerations and guidelines as described below.

Key Considerations

1. **Minimum Technology Specifications for Remote Interpreting**

   When using VRI in any proceeding, the court should ensure that it has the equipment and technology to provide high-quality communications, regardless of the physical location of the participants. (See Appendix A for minimum technology specifications.)

2. **Training**

   Before conducting VRI proceedings, the court should provide all persons participating in the VRI event with adequate training and orientation in the use of the equipment, interactions, and interpreting protocols.

Considerations for VRI for a Court Event

The initial analysis for determining whether a court proceeding is appropriate for VRI may be made by the interpreter coordinator, judicial officer, and/or court staff. The interpreter coordinator, judicial officer, and/or court staff should consider all of the following points when using VRI:

- The anticipated length and complexity of the event, including complexity of the communications involved
- The relative convenience or inconvenience to the court user
- Whether the matter is uncontested
- Whether the proceeding is of an immediate nature, such as arraignments for in-custody defendants, bail reductions, and temporary restraining orders
- Whether the LEP or other parties are present in the courtroom or appearing remotely
- The number of court users who are scheduled to receive interpretation from the same interpreter during the event
- The efficient deployment of court resources
- Whether the LEP party requires a relay interpreter—e.g., where there is an interpreter for an indigenous language who relays the interpretation in Spanish to another interpreter who then provides the interpretation in English (the need for a relay interpreter does not

preclude the use of VRI but might necessitate the presence of at least one of the interpreters in the courtroom or a combination of remote technologies)

- Whether the LEP parties require different interpreters

Guidelines for Using VRI in a Court Proceeding

1. Need to Interrupt or Clarify

When using VRI, the court should consult with the interpreter to determine how best to facilitate interruptions or clarifications that may be needed. The court should suspend and reschedule a matter if VRI is not facilitating effective communication because of technology issues or for other reasons.

2. VRI Time Management

The court should be mindful that, with remote interpreting, additional lag time may be needed for interpreting and relay interpreting. In addition, remote interpreting may result in increased fatigue and stress. Events involving remote interpreting should have shorter sessions or more frequent breaks.

3. Participants Who Must Have Access

The remote interpreter's voice must be heard clearly throughout the courtroom or in a remote courtroom session, and the interpreter must be able to hear all participants, whether they are in person or appearing remotely.

4. Visual/Auditory Issues, Confidentiality, and Modes of Interpreting

VRI is generally preferred over telephonic interpreting, which does not provide visual cues. Several remote platforms provide options for confidential conversations with the LEP litigant, attorney, and interpreter. Remote technologies may provide sight translation, consecutive interpretation, and simultaneous interpretation options.[2]

5. Documents and Other Information

The court should ensure the availability of technology to communicate written information—including a copy of exhibits being introduced—to the interpreter, as well as information after

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[2] Court interpreters must possess proficiency in the three modes of interpretation: 1) simultaneous interpreting, 2) consecutive interpreting, and 3) sight translation of documents.

1. **Simultaneous interpretation** is when the interpretation from the source language to the target language happens in real time.

2. **Consecutive interpretation** is when the speaker pauses after one or two sentences and allows the interpreter to interpret from the source language to the target language before the speaker continues on with their speech.

3. **Sight translation** is when the interpreter is called upon to verbally translate legal documents from English to the target language and from the target language to English.

a proceeding—such as an order—so the interpreter can provide sight translation to the LEP individual, if needed.

6. Professional Standards and Ethics

The same rules for using qualified interpreters apply to assignments using VRI. The Language Access Plan intends to expand the availability of certified and registered interpreters through the use of VRI. All interpreters performing VRI should be familiar with—and are bound by—the same professional standards and ethics as onsite court interpreters.[3]

7. Data Collection

a. Courts using VRI in the courtroom, or in a remote courtroom session, should monitor the effectiveness of their technology and equipment. This examination may include periodic surveys and/or a method for feedback and complaints by in-person and remote participants.

b. For purposes of supporting funding requests, courts should collect data regarding VRI (e.g., the number of interpreter sessions provided, number of languages, and quality of VRI solutions) on an ongoing basis.

c. The Court Interpreter Data Collection System (CIDCS) allows courts to track VRI as the method of interpretation. The data collected in CIDCS is used to support budget change proposals, including augmentation requests for the Court Interpreter Program (Trial Court Trust Fund 0150037) and other language access projects, including funding for VRI software and equipment.

Suggested Language for the Judicial Officer When Considering Objections Related to Remote Interpreting

Below is suggested language for the judicial officer when considering objections related to remote interpreting, including how to present information in the minutes.

> We will have a court certified/registered *[insert language]* interpreter help us with these proceedings.
>
> The interpreter is at a remote location and will appear in court via **[video/audio]** conference. Please remember to speak slowly and clearly and not to speak at the same time as each other.

[3] See *Professional Standards and Ethics for California Court Interpreters* (May 2013). The requirements for provisionally qualifying an interpreter are stated in Government Code section 68561(c) and California Rules of Court, rule 2.893.

> Do parties and counsel have any objections to the interpreter participating by remote interpreting for today's proceedings?
>
> [Judge rules on objections, if any, or assists in resolving concerns.]

If proceeding with remote interpreting by video or audio:

> Parties and counsel had no objections to the use of remote interpreting, so the court will proceed with today's hearing.

[or]

> Parties and counsel objected to the use of remote interpreting, but the court has overruled those objections, so the court will proceed with today's hearing.

If not proceeding with remote interpreting by video or audio:

> Parties and counsel objected to the use of remote interpreting. The court will not continue with today's hearing at this time and will reset this matter for a qualified *[insert language]* language interpreter to be available in person.

Suggested language to include in the minutes:

> Interpreter *[insert interpreter name]* is present by **[video/audio]** remote conferencing and sworn to interpret *[insert language]* language for *[insert party name]*. [(If appropriate) Sworn oath is on file with the Superior Court of California, County of *[insert county]*.]

Add the final sentence about the sworn oath, without brackets, only if an oath is on file.

Visual/Auditory Issues, Confidentiality, and Modes of Interpreting When Working Remotely

1. A clear view of the LEP court user is more important than a view of every speaker. Although the default setting for various platforms displays the speaker, the courts may pin various courtroom participants to remain in view. Cameras on all stakeholders may be beneficial but are not essential. A speakerphone is not recommended unless it accommodates the other requirements of these guidelines, including the ability to be part of a solution to allow for simultaneous interpreting when needed.

2. To ensure the opportunity for confidential attorney-client conferencing, an attorney should have the ability to speak confidentially with an LEP client with the assistance of an interpreter before, during, and after the hearing. Such confidential conversations could be possible using a combination of personal communication devices such as smartphones, tablets, headphones, and individual handsets, depending on the physical location of each participant. Technology used to support virtual courtroom sessions must include some sort of breakout room or conference call functionality to provide for private conversations.

3. Interpreting in the courtroom regularly involves both simultaneous and consecutive modes of interpreting, which can be achieved in a variety of ways using existing and emerging technologies. In longer matters, failure to have a technical solution that can accommodate simultaneous interpreting will result in delays of court time and may cause frustration with remote interpreting. Courts should use a technical solution that will allow for simultaneous interpreting. However, there may be proceedings (for example, very short matters via a telephone) or connectivity issues in which consecutive interpreting is adequate to ensure language access. When using consecutive interpreting, the court should advise participants to speak clearly and in short sentences to help facilitate accurate interpretation.

4. Recognizing that courts may implement very different technical solutions for VRI, it is critical that before the start of an interpreted event all parties, judicial officers, court staff, jail staff, and officers of the court (including attorneys and interpreters) know how to allow for confidential conferencing when needed—for example, how to launch a virtual breakout room, add participants, and rejoin the hearing.

5. All participants, including the LEP party and the interpreters, need to check microphone and/or camera clarity before beginning interpretation. In addition, all participants, including the LEP court users and interpreters, should also check their phone or internet connectivity to ensure adequate signal.

6. Both VRI interpreters and courts should receive training and be knowledgeable of general steps to address technical issues. If available, the courts should also have technical support readily available as needed.

7. Clear, concise operating instructions should be available to interpreters, courtroom staff, jail staff, and LEP court users regarding any technical specifications or procedures related to remote interpretation.

8. When participating in remote events, all participants are encouraged to use a headset or earbuds with a built-in microphone, if possible. This equipment will improve audio clarity for both simultaneous and consecutive interpretation.

Note: Other visual considerations, including visual confidentiality, are important when using VRI with American Sign Language (ASL). Please see *www.courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf* for a complete discussion of using VRI with ASL-interpreted events.

Appendix A. Minimum Specifications for Remote Interpreting

The tables below offer guidelines for providing remote interpretation to LEP court users in court sessions that are initiated in:

- A physical courtroom with in-person and remote participation (table 1); or
- A virtual courtroom session, where all participants are remote (table 2).

Solutions need to support both consecutive interpretation (in open court when the speaker pauses after one or two sentences and allows the interpreter to interpret from the source language to the target language before the speaker continues on with their speech) and simultaneous interpretation (when the interpretation from the source language to the target language happens in real time), allowing the interpreter to toggle back and forth between consecutive and simultaneous interpretation modes as necessary. Solutions also need the capability for breakout rooms that allow confidential conversations between the LEP, attorney, and court interpreter before, during, and after the hearing.

Court users will receive instructions from the court on how to participate in remote hearings if they are appearing remotely. They may participate by using their smartphone or computer if the device has a microphone, an internal or external video camera, access to the internet, and Wi-Fi that supports reliable connectivity for sound and video images.

Remote video connections can be provided from a location within the courthouse for the LEP or an interpreter or both (e.g., from workstations at the courthouse that allow the LEP or interpreter to participate remotely via video). Courts will need to ensure that remote video equipment used at court (for listening, speaking, or visual purposes) is routinely cleaned between use to ensure safety among court staff and court users. If the LEP can connect using audio only (i.e., a phone without smartphone functionality and no video), then the court will provide a telephone number to the LEP for participation.

Courts will need to ensure that platforms used for remote hearings guarantee data security for the court. Also, VRI solutions used by courts must meet the system requirements for selected solutions and the *California Trial Court Facilities Standards*.

Court information technology personnel are highly encouraged to contact their assigned Judicial Council LAN/WAN design engineer for technical advice on network equipment and internet circuits. If court personnel are unsure who their design engineer is, they can email LANWAN@jud.ca.gov, and the appropriate team member will respond.

Table 1. Physical Courtroom With In-Person and Remote Participants

Scenario	LEP Connection	Interpreter Connection	Audio
Interpreter and LEP Remote	Remote video*	Remote video*	Internal (courtroom microphones) and external (remote session) audio connected to the courtroom public address system so all participants can be heard.†
Interpreter In Person, LEP Remote	Remote video*	Tablet device and headset to join the remote video session from within the courtroom	
LEP In Person, Interpreter Remote	Tablet device and headset to join the remote video session from within the courtroom	Remote video*	

Table 2. Virtual Courtroom With All Remote Participants

Scenario	LEP Connection	Interpreter Connection	Audio
Interpreter and LEP Remote	Remote video*	Remote video*	Provided via remote video solution†

LEP = limited English proficient.

* If the LEP can connect only via telephone (no video), then a telephone number will be provided to the LEP by the court for participation. A remote video connection could be provided from a location within the courthouse for both LEP and/or an Interpreter.

† When participating in remote events, all participants are encouraged to use a headset or earbuds with a built-in microphone, if possible. This equipment will improve audio clarity for both simultaneous and consecutive interpretation.