

STATE BAR OF MICHIGAN
JUSTICE INITIATIVES SUMMIT
2014

LANGUAGE ACCESS
Best Practices in Michigan Courts

2004 Census Test
LANGUAGE IDENTIFICATION FLASHBOARD
Census 2010

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Omneće ovaj kvadratić ako žitate ili govorate kvadratić žrtić.	8. Croatian
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Mark this box if you read or speak English	11. English

	13. French
sprechen.	14. German
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हिंदू भाषाई।	17. Hindi
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	21. Italian
	22. Japanese
	23. Korean

24. Tagalog
25. Thai
26. Tongan
27. Vietnamese
28. Russian
29. Spanish
30. Tagalog
31. Thai
32. Tongan
33. Vietnamese
34. Korean





Keynote Speaker

Lisa Wood is a partner and leading antitrust lawyer at Foley Hoag LLP in Boston, and a co-chair of its Litigation Department. She is known nationally for her work in access to justice and has dedicated her entire volunteer life to access to justice issues. In addition to her strong desire to assure access to justice for all and increase funding for legal service to the poor, Lisa strongly believes that equal justice is a fundamental component of our nation's character and that the rule of law is an essential principle of our democracy. She was recently awarded the 2014 John Minor Wisdom Public Interest and Professionalism Award by the American Bar Association. Lisa currently serves as chair of the American Bar Association's oldest standing committee, the Standing Committee on Legal Aid and Indigent Defendants (SCLAID) and has previously served as a member of the Legal Service Corporation's National Pro Bono Task Force.

She has helped with the development of the ABA's Language Access Standards as a member of SCLAID's language access task force and has worked with the Volunteer Lawyer Project's award winning language access initiative. She is a graduate of Kenyon College, summa cum laude, and Boston College Law School, magna cum laude.



5TH ANNUAL JUSTICE INITIATIVES SUMMIT

Best Practices for Language Access in Michigan Courts

Language Access Summit Program Summary

Introduction

On April 28, 2014, over 60 judges, court staff, access to justice advocates, language interpreters, community partners, U. S. Department of Justice representatives, and others gathered at the State Bar of Michigan to participate in the Fifth Annual Justice Initiatives (JI) Summit that addressed “Language Access: Best Practices in Michigan Courts.” The group was convened by State Bar President-elect Tom Rombach who explained that each year the JI community identifies the most important access to justice issues facing the Michigan legal community. Because of the adoption in September 2013 of MCR 1.111 (language access) and MCR 8.127 (Foreign Language Review Board), and the language access implementation process that has been underway since, it was clear that language access should be the focus of this year’s Summit.

Welcoming Remarks

Michigan Supreme Court Chief Justice Robert P. Young, Jr. and Justice Bridget M. McCormack welcomed the group by noting the state of implementation of a consistent and meaningful language access program for limited English proficient (LEP) people in Michigan courts is strong. This represents a cultural change for some over 240 trial courts. For some who have successfully addressed these issues in the past, it’s business as usual. For others, the work is just beginning. Moving to consistent and meaningful access is a big job and there are no easy solutions. There are over 750 State Court Administrative Office (SCAO) court forms, and Google Translate is not a valid option.

Change is not impossible. Phone sessions with judges and court staff have been held. All courts have submitted a language access plan. [The Foreign Language Board of Review \(FLBR\)](#) has been meeting. [Translated forms](#) can be found on the SCAO website, and trial courts can hyperlink that content to their own websites. The Court’s Language Access Implementation Committee is making tremendous progress and is asking all stakeholders to share their perspectives, questions, and concerns with them.

All trial courts should have their [language access plans](#) posted on their website. If a trial court does not have any LEP content on its website, court staff can add the Supreme Court link to [language access resources](#). The Court is actively partnering with [Michigan Legal Help](#), a great asset for self-represented litigants that is unveiling its Spanish content website [Ayuda Legal de Michigan](#) today, and which is providing [automated forms for requesting an interpreter](#) or for review of a denial of a request for interpreter

Reflection and Introduction of Keynote Speaker

Bob Gillett noted that the new rules offer a significant step forward, providing access to interpreters in civil and criminal matters, in the courtroom and in courthouse operations. Interpreters are to be provided to parties, witnesses, and other interested people – a significant change in Michigan practice. Bob noted the assessment of costs to litigants issue is not fully resolved, but the purpose of today's gathering is not to resolve that. Our purpose is to identify best practices in implementing language access. Bob introduced Lisa Wood, chair of the American Bar Association Standing Committee on Legal Aid and Indigent Defense (SCLAID) and litigation expert at Foley Hoag in Boston.

Keynote Remarks

SCLAID is proud of the [ABA Language Access Standards](#) and Lisa commended the Michigan Supreme Court for adopting language access rules. Language access is an issue facing many states. The SCLAID history is one of taking a collaborative approach with all of the stakeholder voices, and arriving at standards that are eventually cited by courts and have the effect of law. Such was the case with the language access standards that call for much change in the face of funding challenges.

We need to respond to the changing demographics of our country. Twenty percent of the U.S. population is LEP, and that number will continue to increase. The first language access standard provides the legal underpinnings for this work. It is based in equal protection and Title VI of the Civil Rights Act of 1964. Executive Order 13166 issued by President Clinton in 2000 called for the provision of language access in federal programs. The Omnibus Crime Control and Safe Streets Act of 1968 also addresses this issue. If your program has federal funding you must provide language access. Ethical codes also speak to the obligation that lawyers and clients are understood and can meaningfully participate in proceedings. It affects the integrity and efficiency of the courts. The ABA recognizes that implementation will likely be unique and gradual in each state. Wood referred to the challenges in providing access for the deaf and hard of hearing when that was called for by the American with Disabilities Act 20 years ago.

Wood lauded Michigan for the tremendous progress it has made on language access. She urged everyone to keep looking at the standards provided to each summit participant. She provided these highlights:

STANDARD 1: Fundamental Principles. “As a fundamental principle of law, fairness, and access to justice, and to promote the integrity and accuracy of judicial proceedings, courts should develop and implement an enforceable system of language access services....”

STANDARD 2: Meaningful Access. State courts should promulgate language access rules. Notice of the availability of language access services should be provided to all persons in a language they understand. Services should be provided without charge; Standard 2.3 recognizes that adequate funding might not be immediately available, and that implementation may need to be phased over a period of time with priority given to services without charge to low and moderate-income persons and unrepresented litigants.

STANDARD 3: Identifying LEP Persons. This standard addresses data collection. It also

makes it clear that LEP persons should self-identify as needing language access services.

STANDARD 4: Interpreter Services in Legal Proceedings.

Competent services are necessary.

STANDARD 5: Language Access in Court Services. Services are to be provided in all court services with public contact, including court-managed offices, operations, and programs.

STANDARD 6: Language Access in Court-Mandated and Offered Services. There are challenges here, and access to justice principles must be carried forward.

STANDARD 7: Translation. A system for prioritizing and translating documents needs to be established.

STANDARD 8: Qualifications of Language Access Providers. This standard addresses credentialing of interpreters and translators.

STANDARD 9: Training. Judges, court personnel, and court-appointed professionals should be provided with training on legal requirements, court policies and rules, qualifications of language service providers, ethics, working with service providers, use of translated materials, and cultural competency.

STANDARD 10: Statewide Coordination. Each court system should establish a method of coordinating and facilitating the provision of services.

“WHY SHOULD WE CARE?”

As lawyers, we are committed to the rule of law. If access to justice is not addressed the justice system will weaken. Despite the funding challenges, if those who come to court feel disengaged, we are not being true to who we are. People from around the world want their disputes resolved in our justice system and we must assure everyone is heard and understood in languages they know.

Interpreter Demonstrations

SUSAN REED PROVIDED THREE SEPARATE DEMONSTRATIONS:

The first was conducted in Spanish, with an English speaking litigant who needed an interpreter. The judge used *“I Speak”* cards to allow the litigant to identify English as her language, and to enlist the aid of an in-person English-Spanish interpreter.

The second involved a witness who did not speak English. The judge called Language Line to use a telephone interpreter who assisted in establishing an adjourned date so an in-person interpreter could be engaged.

The third involved a witness who insisted he did not need an interpreter to understand the English proceedings, but he had uncertain and inappropriate responses to routine questions. After a short but more thorough examination, the judge decided an interpreter was needed. Discussion showed that interpreting does not involve word-for-word interpretation. Some-

times, more words are needed in Spanish to convey thoughts. Translated documents can be 20 percent longer in Spanish than English. A credentialed sign language interpreter shared that fewer signs are needed than words spoken. The audience also identified a cultural difference between the witness and the judge, with the judge not feeling comfortable with the eye contact used by the witness. Sensitivity to these differences is part of the learning.

Lunch Presentation

Hassan Jaber, executive director of the Arab Community Center for Economic and Social Services (ACCESS) shared a community perspective. Language access is long due especially because immigration is on the rise, it is fueling small business ownership, and there is a shift in favor of immigration by business leaders, labor, and others. Michigan is diverse with the second highest immigration population among the states. We will be facing challenges of assimilation everywhere, including the courts. We need to know of and avoid stereotypes. The Arab American population comes from 22 countries, and two-thirds of the Arab world is from Africa. It includes a lot of cultures and religious backgrounds. The Arab immigrant population represents extremes of income and education. Recent immigrants have a high incidence of post-traumatic stress disorder and need a wide variety of services to help them regain their resilience and determination.

This community perspective is helpful in the court interpretation and translation setting. Efforts to improve language access in the courts must simultaneously include efforts to become increasingly culturally competent and immigration status sensitive. Court practitioners need better tools and supporting organizational and community infrastructure to help assist individuals.

Breakout Sessions

1. NUTS AND BOLTS

The key point of this session was the importance of reading and learning MCR 1.111. The rule is not self-implementing; best practices in implementing the rule should be available across the state. The SCAO website should be checked regularly for information and updates. Certified and qualified interpreters are listed there. A court can use a bi-lingual employee to interpret in certain situations. The court must confirm the necessity for an interpreter even if a person may not think they need one. A denial of a request for an interpreter must be in writing. The court sets fees for interpreters and is responsible for the cost unless the individual can reimburse all or some cost.

A power point presentation was used in this session.

2. SERVICES IN COURTHOUSE OPERATIONS

The key point of this session considered the scope of “courthouse operations” and to identify many unanswered questions. One approach to determining if a service fits within the scope of “courthouse operations” asks whether the court controls the service and whether there is a contractual relationship between the court and the service provider. If not, courts can still use their influence on the provider to insist on language access for services. This session also identified the need to take the language access plans to the next level, to move them to action plans with stronger messages about signage, using I Speak cards, and avenues for complaints. Participants said training and information about best practices

are needed. Participants also identified a desire to make Michigan's justice system one that facilitates language access and does not just depend on individuals requesting help.

3. SERVICES INSIDE OF THE COURTROOM

This breakout session discussed issues related to language access and the provision of services inside the courtroom. The group looked at MCR 1.111 and discussed the different standards for interpreters, and discussed the court's obligation to appoint a certified foreign language interpreter whenever practicable. Where a certified interpreter is not available, the court may appoint a qualified foreign language if appropriate given the gravity of the proceedings. Where a certified or qualified interpreter is not available, the court, after considering the gravity of the situation, may appoint a person whom the court determines through voir dire to be capable of conveying the intent and content of the speaker's words to allow the court to conduct proceedings without prejudice to the limited English proficient person.

The session's participants discussed next steps and the importance of providing customer satisfaction surveys to parties using interpreter services. The group stressed that the satisfaction surveys should be translated into the appropriate language. The group felt that all court staff and other parties should receive adequate training and education on language access issues. To determine the progress of language access, the group proposed that data should be captured and analyzed. Success may include increased availability of certified interpreters and the percentage of hearings conducted with interpreter services.

A power point presentation was used in this session.

4. DOCUMENT TRANSLATION

It is important to manage expectations and to understand that not all documents can be translated. There are many opportunities for document translation but we must be strategic about how translations are prioritized. This involves striking a balance between costs and helpfulness. The Request and Order for Interpreter forms are in English and are also available as translated forms on the SCAO website, and help to complete forms is available on Michigan Legal Help. Priorities start with pleadings, and anything that requires a response from a litigant. Language access coordinators in each court can help.

The partners who are leading the way in this effort are the SCAO, Michigan Legal Help, and the courts.

Closing Thoughts

Maya Watson enlisted aid from participants to summarize key points made in the breakout sessions. She thanked everyone for being part of the conversation, and urged participants to look for the written Summit Summary to share with their constituent groups and keep moving toward meaningful and consistent language access in Michigan courts.

Annual Justice Initiatives Summit

The Justice Initiatives Summit is a program of the State Bar of Michigan's Committee on Justice Initiatives. By invitation of the president of the State Bar, prominent public officials and other high-level stakeholders, justice initiatives leaders, individuals with expertise in state and national movements and trends, and "big thinkers" will attend. A Summit Cabinet consisting of the State Bar president-elect and executive director, the executive director of the Michigan State Bar Foundation, and two presidential appointees from the Committee on Justice Initiatives will be responsible for planning and execution. The Summit will provide an opportunity for all major players in justice initiatives issues to come together to exchange perspectives and information on the most important access to justice issues, and the challenges and opportunities facing Michigan and its legal community in the upcoming year. They will be informed of current JI work from a report given by the State Bar of Michigan executive director. The Summit will be convened in April so that the insights and perspectives of the Summit can be used in identifying issues to address and preparing the budget for the next bar year. Under extraordinary circumstances, a biannual Summit might be convened.

2014 Justice Initiatives Summit Cabinet

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Linda K. Rexer
Thomas C. Rombach
Maya K. Watson
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