

APPENDIX B

LANGUAGE ASSISTANCE PLAN (LAP) for the CHELAN-DOUGLAS COUNTIES SUPERIOR, DISTRICT, & MUNICIPAL COURTS

THE CHELAN-DOUGLAS COURTS LANGUAGE ASSISTANCE PLAN (LAP)

I. LEGAL BASIS AND PURPOSE

This document serves as the plan for all Chelan and Douglas counties courts, comprising five Chelan County Superior courtrooms (3 Superior Court, 1 Commissioner Court, and 1 Juvenile Court), two Chelan County District courtrooms, the two Douglas County Superior courtrooms, two Douglas County Districts courtrooms (East Wenatchee and Bridgeport), and one East Wenatchee Municipal courtroom (hereinafter, "Chelan-Douglas Courts") to provide services to Limited English Proficient (LEP), deaf or hearing impaired individuals in compliance with Title VI of the Civil Rights Act of 1964; 45 C.F.R. § 80 et seq.; 28 C.F.R. § 42 et seq.; and RCW 2.42 and 2.43. The purpose of this plan is to provide a framework for the provision of timely and reasonable language assistance to LEP, deaf or hearing-impaired persons who come in contact with all Chelan-Douglas Courts.

This LAP Plan was developed to insure equal access to court services for persons with limited English proficiency and deaf and hearing-impaired persons. Although deaf and hearing-impaired 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 RCW 2.42 and 2.43.

II. NEEDS ASSESSMENT

A. Statewide

Washington State provides court services to a wide range of persons, including people who do not speak English or who are deaf or hearing impaired. Service providers include the trial courts at the Superior, District and Municipal Court

levels.

According to 2000 U.S. Census data, the most widely used languages for interpreters in Washington State were (in descending order of frequency):

1. Spanish
2. Russian
3. Vietnamese
4. Chinese

B. Chelan-Douglas Courts

The Chelan-Douglas Courts will make every effort to provide services to all LEP, deaf and hearing-impaired persons. The following list shows the non-English languages that are most frequently used in the area.

- Spanish

The Chelan-Douglas Courts and attorneys have identified the following additional language assistance needs among court users in the area.

- Vietnamese - Asian
- Russian – Ukrainian
- ASL
- Indigenous languages of Mexico & Central America.

These lists of (1) “languages most frequently used” and (2) “other identified languages” is information is based on the 2000 U.S. Census and 2006 U.S. Census estimates,¹ and local school district enrollment numbers. In compiling information on local language needs, the following individuals and groups were consulted: all Judges and all Court Administrators of the Chelan-Douglas Courts, the Douglas County on-staff certified interpreter, Columbia Legal Services and Northwest Justice Project attorneys, a Columbia Legal Services Legal Assistant who is also a qualified interpreter, the Director of the Chelan-Douglas Volunteer Attorney program, “El Mundo” (Spanish-language newspaper), Chelan-Douglas

¹ The 2000 U.S. Census does not separate from people with sensory disabilities people who are deaf or hearing impaired.

Rape Crisis Domestic Violence, a profoundly hearing-impaired local attorney, the Chelan-Douglas Counties Child Support Prosecuting Attorney, and from the Washington State Coalition of Language Access.

Based upon data from the National Health Interview Survey (NHIS) and the Survey of Income and Program Participation (SIPP), about 2 to 4 of every 1,000 people in the United States are "functionally deaf." It is estimated that 200 - 400 people residing in Chelan-Douglas counties are "functionally deaf".

If people with a severe hearing impairment are included with those who are deaf, then the number is 4 to 10 times higher. That is, using 300 as the estimated number of "functional deaf" Chelan-Douglas residents, anywhere from 1,200 to 3,000 Chelan-Douglas counties residents have a severe hearing impairment or are deaf.

III. LANGUAGE ASSISTANCE RESOURCES

A. Interpreters Used In the Courtroom

AOC Plan Language

The use of court interpreters (both sign language and non-English spoken language) is guided by two state statutes – RCW 2.42 and 2.43, respectively.

It is the policy/law of Washington State to secure the constitutional rights of deaf persons and of other persons who, because of impairment of hearing or speech, are unable to readily understand or communicate the spoken English language and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them. See RCW 2.42. It is also the policy/law of Washington State to secure the rights, constitutional or otherwise, of persons who, because of a non-English speaking cultural background, are unable to readily understand or communicate in the English language and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them. See RCW 2.43.

When a deaf or hearing impaired person is a party or witness at any stage of a judicial or quasi judicial proceeding in the state or political subdivision, including but not limited to civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings and any proceeding in which a deaf or hearing impaired person may be subject to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter. See RCW 2.42.120(1). When a non English speaking person is a party to a legal proceeding or is subpoenaed or summoned by an appointing authority or is otherwise compelled by an appointing authority to appear at a legal proceeding, the appointing authority shall use the services of only those language interpreters who have been certified or registered by the Administrative Office of the Courts (AOC). See RCW 2.43.030(1)(b). If the current list of certified and registered interpreters maintained by AOC does not include an interpreter certified or registered in the language spoken by the non English speaking person, the appointing authority shall appoint a qualified interpreter as defined in RCW 2.43.020(2).

The Chelan-Douglas Courts – Current Practice

At present, the Chelan-Douglas Courts have the following primary means of providing LEP interpreter services for the region's Spanish-speaking court customers:

- The Douglas County Superior and District Courts share one full-time on-staff certified interpreter, and in most criminal, dependency, juvenile, or mental health commitment proceedings, and in some civil proceedings, appoint a certified Spanish-language interpreter where the primary language of the non English speaking person is Spanish. Qualified interpreters are often used in civil proceedings. Douglas County arraignments may be conducted by video conference between the jail and the courtroom, where interpreters interpret the proceedings. Douglas County District Court proceedings located in Bridgeport are conducted by video conference with the interpreter and judge in East Wenatchee.
- The East Wenatchee Municipal Court uses a local freelance certified or qualified interpreter. Non-certified interpreters (persons selected by the court customer) are sometimes used.

- The Chelan County Superior Court hires two freelance interpreters on an as-needed basis for trials and various motion calendars. One is certified; the other is a qualified interpreter. The Superior Court customarily provides certified interpreter services to Spanish-speaking court customers in cases where a Superior Court Judge presides, though it is extremely frequent to use a qualified interpreter in these proceedings. Qualified interpreter services are used in nearly all non-adult criminal proceedings, including dependency, juvenile offender, mental health commitment, and family law. All Spanish-language interpreters currently used in the Chelan County District Courts are qualified, rather than certified or registered. Interpreters are currently hired and present throughout specific court calendars where LEP court customers may appear (criminal calendar, arraignments, criminal juvenile calendar, show cause, domestic violence, etc.).
- The Chelan County District Court has two full-time on-staff interpreter positions (one position is vacant). These two positions have most recently been filled by qualified and not certified or registered interpreters.

All courts supplement interpreter services listed above with both out-of-town and out-of-region freelance interpreters. Also, all courts use non qualified interpreters (family members, friends, bilingual but non qualified court personnel) when certified, registered or qualified interpreters are not available (due to conflicts, cost, and various other reasons).

The Chelan-Douglas Courts currently use community resources, such as the local junior college and the local Department of Social and Health Services, to obtain interpreters for persons who speak a non-English language other than Spanish and to obtain ASL interpreters for deaf persons who communicate in ASL.

The Chelan-Douglas Courts utilize public address sound amplification systems to enable persons who are hearing-impaired to access court proceedings. A universal infrared listening device with headset and microphone are used where the hearing-impaired person does not sign or the sound amplification system does not enable the hearing-impaired person full participation. In East Wenatchee Municipal Court, this infrared listening device is offered to anyone in need prior to the start of court proceedings (i.e., traffic court or to juries). In other courts it is the responsibility of the individual or their attorney to inform the court of the need for accommodation.

The Chelan-Douglas Courts – The LAP Plan

It is the goal of all Chelan-Douglas Courts to have readily available and to provide certified and registered interpreters at all in-court proceedings, including civil and criminal proceedings, for all Spanish-speaking court customers. Certified interpreters will be recruited to relocate to the Wenatchee – East Wenatchee area, the Chelan County Superior Court, and other courts where appropriate, will hire on-staff certified interpreters, and on-staff qualified interpreters will be given opportunities and support to become certified interpreters.

The Chelan-Douglas Courts shall obtain from the AOC, or from other state or local resources, the names certified or registered interpreters who interpret for court customers who speak a non-English language other than Spanish for which testing and certification is available. For languages where testing and certification is not available, it is the goal of the Chelan-Douglas Courts to obtain qualified or the best-qualified interpreter services reasonably available to protect the court customers' right to fully participate in civil and criminal proceedings.

It is the goal of the Chelan-Douglas Courts that LEP court customers will be informed that interpreter services will be provided prior to an in-court appearance, so that the LEP court customer will know that s/he will not be required to provide an interpreter, thus avoiding the use of non qualified interpreters (friends, family members, non qualified court personnel) in the courts.

The Chelan County Superior Court has adopted a local court rule requiring attorneys and litigants to notify the court in advance if any party or witness will require interpreter services. Similar rules will be proposed in other Chelan-Douglas Courts for adoption.

It is the goal of the Chelan-Douglas Courts to increase by at least two the number of certified or registered interpreters residing in the Wenatchee – East Wenatchee area. This goal will be achieved by recruitment and by hiring on-staff certified or registered interpreters to provide in-court services in lieu of freelance interpreters. It is the goal of the Courts that on-staff interpreters currently

employed on-staff by the courts shall become certified or registered interpreters.

The Chelan-Douglas Courts shall seek qualified ASL interpreter services through the Department of Social and Health Services, Office of Deaf Services, through any community center for hearing impaired persons which operates an interpreter referral service, or local social service agency, college that maintains a list of qualified interpreters for deaf or hearing-impaired persons, or the American Sign Language Interpreter Network (www.aslnetwork.com). The DSHS Office of Deaf Services and these community centers maintain up-to-date lists of interpreters that are certified by the state and/or by the registry of interpreters for the deaf.

If the communication mode or language of the hearing impaired person is not readily interpretable, the Courts shall appoint an intermediary interpreter to assist the qualified interpreter.

Accommodation should be addressed before the LEP, deaf or hearing-impaired person appears in court proceedings.

Posters and written materials shall advise LEP and deaf and hearing-impaired persons that interpreter services are available and may be arranged in advance through the Courts. Posters and written materials shall advise deaf and hearing-impaired persons that flexible methods of accommodation that best meet the person's individual needs will be made available, including interpreter services. Court staff shall receive training relating to the provision of interpreter services to LEP persons, and as to flexible methods of accommodation for deaf or hearing-impaired person.

The Chelan-Douglas Courts shall maintain a list of available interpreters, including contact and cost information for utilization by all Chelan-Douglas Courts. The purpose of this list shall be to promote more efficient utilization of out-of-town interpreters, and to promote fair and uniform interpreter compensation. The Courts will also utilize a list of individuals residing in Washington and Oregon able to interpret indigenous languages of Mexico or Central America.

This Plan will be revised during the first year of the Plan to reflect the recommendations of the AOC, needs of LEP court customers, input from a local advisory committee, the expertise of organizations serving deaf and hearing-impaired persons, and to reflect the experience of the Courts. Thereafter, this Plan shall be reviewed and revised as appropriate, but at least every 5 years.

When a court customer is unable to speak but is capable of communication, the Chelan-Douglas Courts shall determine whether interpreter services would be of assistance and, if so, will appoint the best interpreter services reasonably available.

Finally, the overriding goal of the Chelan-Douglas Courts LAP Plan is to provide certified or registered interpreter services in all criminal and civil proceedings where the court customer speaks Spanish, Russian, or Vietnamese as their primary language, or is deaf and communicates in ASL, and to provide qualified, AOC tested and registered, or best available interpreter services where the court customer speaks a language for which AOC certification or registration is not available, including but not limited to, other Asian languages, Ukrainian, or any indigenous language of Mexico or Central America. It is that goal of the Chelan-Douglas LAP Plan that no person shall ever be asked (or allowed) to provide their own interpreter when interpreter services are needed for in-court proceedings.

1. Determining the Need for an Interpreter in the Courtroom

There are various ways that the Chelan-Douglas Courts will determine whether an LEP, deaf or hearing-impaired court customer needs an interpreter for a court hearing. First, the LEP, deaf or hearing-impaired person may request an interpreter. When available, the Chelan-Douglas Courts shall display a sign translated into the most frequently used and other identified languages, which states: "You may have the right to a court-appointed interpreter in a court case. Please ask someone at the clerk's office." The Chelan-Douglas Courts shall display this sign at the following locations: Court clerks' offices, Court foyer, and the on-staff interpreter's office. Clerks Office and other appropriate personnel will also have "I speak" cards available so the court customer may communicate the language in which interpreter services are required.

Many people who need an interpreter will not request one because they do not realize that interpreters are available, or because they do not recognize the level of English proficiency or communication skills needed to understand the court proceeding. Therefore, in cases where the individual has not responded to posters or notified the court and where it appears that the individual nevertheless may have some difficulty communicating, the court administrator or judge shall err on the side of providing an interpreter to ensure full access to the courts.

Outside agencies such as probation, attorneys, social workers or correctional facilities will be encouraged to notify the court about an LEP, deaf or hearing-impaired individual's need for an interpreter for an upcoming court hearing.

Chelan County Superior Court has adopted a local court rule that creates a duty upon all parties and attorneys to notify the Court when a party, opposing party, or witness may need interpreter services. Similar rules will be proposed in other Chelan-Douglas Courts, as appropriate.

The Chelan-Douglas Courts need to obtain telecommunications equipment in order to communicate with persons who are deaf or use such equipment to communicate, in order to determine the need for interpreter services.

2. Court Interpreter Qualifications

The Chelan-Douglas Courts hire interpreters for courtroom hearings in compliance with the rules and policies set forth in RCW 2.42 and 2.43 as well as General Rule 11.0; 11.1; 11.2; and 11.3. The Washington State Court Interpreter Program maintains a statewide roster of Certified and Registered interpreters who may work in the courts. This roster is available to court staff and the public at www.courts.wa.gov/programs&orgs. Certified and registered interpreters on the roster have passed a written examination, oral examination, undergone a criminal background check, signed an oath and attended an orientation.

Washington State currently certifies the following languages: Arabic, Cantonese, Korean, Laotian, Mandarin, Russian, Somali, Spanish, Vietnamese and American Sign Language (ASL). Washington also offers testing in the

"registered interpreter" category in the following languages: Afrikaans, Albanian, Amharic, Baluchi, Bengali, Bulgarian, Cebuano, Chavacano, Croatian, Czech, Dari, Dutch, Egyptian, Filipino, French, German, Haitian Creole, Hebrew, Hilgaynon, Hindi, Hmong, Ilonggo, Indonesian, Italian, Japanese, Javanese, Khmer, Malay, Norwegian, Pashto, Persian Farsi, Polish, Portuguese, Punjabi, Romanian, Serbian, Slovak, Swahili, Swedish, Tausug, Thai, Turkish, Urdu and Visayan.

The court may appoint non-certified and non-registered interpreters who are not listed on the statewide roster only when certified and registered interpreters are unavailable. Whenever non-certified and non-registered interpreters are used in the courtroom, judges are encouraged to inquire into the interpreter's skills, professional experience, and potential conflicts of interest.

The Chelan-Douglas Courts – Current Practice

The Chelan-Douglas Courts have used telephone interpreting if no interpreters are available in person pursuant to General Rule 11.3 (non-evidentiary proceedings). Non qualified family members, friends, and bilingual court staff that are not on the statewide roster are occasionally used to interpret in the Chelan-Douglas Courts.

The Chelan-Douglas Courts – The LAP Plan

Certified interpreters shall be used in civil and criminal proceedings where certification is available. The best available interpreter services shall be used where certification is not available. Telephone interpreter services may be used where in-person services are not reasonably available; the telephone interpreter must be certified or registered or the most qualified interpreter reasonably available. Non qualified family members, friends, and bilingual court staff that are not on the statewide roster shall not be used to interpret in the Chelan-Douglas Courts.

B. Spoken Language Services Outside the Courtroom

The Chelan-Douglas Courts are also responsible for taking reasonable steps to

ensure that LEP, deaf and hearing-impaired individuals have meaningful access to services outside the courtroom. This is one of the most challenging situations facing court staff, because in most situations they are charged with assisting LEP, deaf or hearing-impaired individuals without an interpreter. LEP, deaf or hearing-impaired individuals may come in contact with court personnel via the phone, clerk's office visit, attorney or party notification, Superior Court facilitator, volunteer lawyer program, social service agency notification, public defender notification, probation department, in court identification, or other means.

The Chelan-Douglas Courts – Current Practice

Chelan County Superior Court & Clerk's Office

- The clerk's office has two employees who are fluent in Spanish and English, and who provide assistance with information and filing needs, and advises the LEP person about accessing LEP services in the court
- The Court's two freelance interpreters provide help to LEP persons outside the courtroom, when available between hearings.
- Certified ASL interpreters are contacted and come to the court for deaf, hearing-impaired customers who communicate in ASL
- The Chelan County Superior Court has adopted a local court rule that creates a duty upon all parties and counsel to notify the Court when a party, opposing party, or witness may need interpreter services.
- Language line has been used

Chelan County District Court

- On staff Spanish-speaking interpreters assist the clerk's office, when not in court and when otherwise available
- The Clerk's office has one Spanish-speaking bilingual staff person who assists Spanish-speaking court customers

Douglas County Superior Court & Clerk's Office

- The Court's 1/3-time certified interpreter (splits time with Douglas County District Court) assists out-of-court, when available

- The Clerk's office has a bilingual clerk located in East Wenatchee who provides assistance via telephone to Spanish-speaking customers out-of-court.

Douglas County District Court

- The Court's 2/3-time certified interpreter (splits time with Douglas County Superior Court) assists out-of-court, when available
- One Spanish-speaking bilingual clerk located at Douglas County District Court in East Wenatchee assists with telephone calls and correspondence when needed

East Wenatchee Municipal Court

- The Court's 1/4-time certified interpreter (splits time with Douglas County Superior Court) assists out-of-court, when available
- The Court calls a qualified interpreter on an as needed basis, who may help out-of-court where required

The Chelan-Douglas Courts – The LAP Plan

Signage, brochures, and "I speak" cards will be used to help LEP court customers make their needs known to court personnel. The number of bilingual staff hired by the courts and clerks offices has been increasing. The Coordinator and advisory committee have not yet determined whether the courts have implemented a "bilingual preferred" employment priority to supplement their non-discrimination in employment mandate. One express LAP goal is bring at least 2 certified interpreters to Wenatchee – East Wenatchee, including by hiring on-staff certified interpreters. It is anticipated that additional interpreters shall frequently provide brief out-of-court services. This is an area where the Chelan-Douglas Courts LAP Plan will need review and revision within the next year.

The Chelan-Douglas Courts need to obtain telecommunications equipment in order to communicate out of court with persons who are deaf or use such equipment to communicate.

C. Translated Forms & Documents

The Administrative Office of the Courts understands the importance of translating forms and documents so that LEP individuals have greater access to the courts' services.

The Chelan-Douglas Courts – Current Practice

The Chelan-Douglas Courts currently have no forms translated into commonly used languages but do use the following AOC or CLEAR translated materials:

- Administrative Office of the Courts on-line forms and brochures – Sexual Assault, Motion, Order, others, that have been translated into Spanish and other languages.
- Northwest Justice Project CLEAR on-line forms and brochures – Dissolution of Marriage, Custody, and other forms and brochures that have been translated into Spanish and other languages.

When interpreters are hired for hearings, they are expected to provide sight translations for corresponding documents to LEP individuals when necessary.

The Chelan-Douglas Courts – The LAP Plan

The Chelan-Douglas Courts will need to translate and make available to LEP, deaf and hearing-impaired persons written materials explaining the policies and procedures contained in this or in any revised LAP Plan. Forms, brochures, materials and court website content must be accessible to LEP court customers.

The Chelan-Douglas Courts will seek assistance from the AOC and others to identify forms, brochures, and other materials that should be translated. The Courts' LAP Plan may be revised in this area. The Chelan-Douglas Courts shall accept assistance from the AOC and others in translating forms and documents so that LEP individuals have greater access to the courts' services.

IV. TRAINING

The Chelan-Douglas Courts – Current Practice

Local courts have not been providing training opportunities for all judicial and court staff members who come in contact with LEP, deaf or hearing-impaired individuals, except Douglas County has funded continuing education for its certified interpreter.

The Chelan-Douglas Courts – The LAP Plan

Chelan-Douglas Courts are committed to providing the following specific training opportunities in the future:

- Staff will receive instructions regarding LAP Plan policies and procedures on an annual basis
- Front-line staff will be required to annually review "Breaking Down the Language Barrier," a video training tool provided by the Department of Justice
- Cultural or deaf-hearing impaired specific training will be provided by outside or local agencies or individuals
- Staff shall attend state or regional trainings provided by the AOC, at the discretion of the presiding judge
- Continuing education shall be provided for on-staff certified interpreters.

V. PUBLIC NOTIFICATION AND EVALUATION OF LAP PLAN

A. LAP Plan Approval & Notification

The Chelan-Douglas Courts' LAP regional plan has been approved by the Chelan-Douglas Courts and Judges, the Chelan County Superior Court Administrator, the Chelan County District Court Administrator, the Douglas County Superior Court Administrator, the Douglas County District Court Administrator, and the East Wenatchee Municipal Court Administrator, and a copy has been forwarded to the Washington State Administrative Office of the

Courts Interpreter Program Coordinator. Any revisions to the regional plan, including any revision by any individual Court now participating in the regional LAP Plan, will be submitted to the Court Administrator for approval, and then forwarded to the Interpreter Program Coordinator. Copies of the Chelan-Douglas Courts' LAP regional Plan will be provided upon request. In addition, the Chelan-Douglas Courts will post this regional plan on their own and AOC's websites.

B. Annual Evaluation of the LAP Plan

The Chelan-Douglas Courts will conduct an annual needs assessment to determine whether changes to the LAP Plan are needed. This assessment may be done by tracking the number of interpreters requested by language in the courts, or by other methods as best meet the data needs of the AOC. The needs assessment may also be done by the Coordinator and by the Chelan-Douglas LAP Plan coordinating committee. The needs assessment may also include assessment of services at points-of-contact for the courts, including clerk's offices, probation department, or notice as required by local rule from members of the bar association.

Any revisions made to the Plan will be communicated to all court personnel, and an updated version of the plan will be posted on the courts' web sites. Additionally, revisions will be posted on the AOC's public website.

An LAP Plan committee shall be organized in Chelan-Douglas counties. Court staff shall participate on the Chelan-Douglas LAP Plan coordinating committee. The committee shall meet quarterly, conduct needs assessment, Plan review and revision, and provide requested information and assistance to the interpreter coordinator and to the Courts.

Each year the statewide AOC Court Interpreter Program Coordinator will coordinate with designated local court staff. In Chelan-Douglas counties, the local coordinator and the LAP Plan committee shall be available to coordinate with the AOC Court Interpreter Program Coordinator. Chelan-Douglas counties' LAP Plan shall be reviewed to assess the effectiveness of the LAP Plan. The

evaluation shall include identification of any problem areas and development of required corrective action strategies. Elements of the evaluation may, without limitation, include:

- Assess the number of LEP, deaf or hearing-impaired persons requesting court interpreters in Washington State trial courts, and in Chelan-Douglas trial courts
- Assessment of evolving language needs to determine if additional interpreter services, translated forms, or materials should be provided
- Assessment of whether court staff members adequately understand LAP Plan policies and procedures and how to carry them out
- Gather feedback from LEP, deaf and hearing-impaired communities around the state, and, in particular, from LEP, deaf and hearing-impaired communities in Chelan-Douglas counties

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The effective date of this LAP Plan is upon approval by the AOC.