



# COLORADO

## Office of Administrative Courts

Department of Personnel  
& Administration

Denver Office  
1525 Sherman St.  
Denver, CO 80203

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## COLORADO OFFICE OF ADMINISTRATIVE COURTS LANGUAGE ACCESS POLICY AND PLAN

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### I. VISION STATEMENT

The Colorado Office of Administrative Courts (OAC) strives to deliver effective, efficient, and equitable service to the public. This includes providing meaningful access to our hearings and mediations to limited English proficient (LEP) individuals who interact with the OAC.

It is the policy of the OAC that any LEP individuals, including litigants, and witnesses, shall have full, equal, timely, and effective access to OAC programs and activities in which they are involved. All OAC staff shall provide free language assistance services to LEP parties and witnesses whom they encounter or whenever such a party or witness requests language assistance services. The OAC will adhere to all state and federal law concerning such LEP individuals.

The OAC will inform parties, witnesses, and the public of this policy.

### II. PLAN STATEMENT

1. The OAC will continually work to improve service delivery options available to LEP individuals so that they can communicate with us effectively in person, including over the phone, in writing, and by video.
2. The OAC is responsible for ensuring that the public has access to our court system, regardless of primary language. Our employees will take all reasonable steps to inform the public about our language accessibility services.
3. The OAC LEP policy and procedures align with our strategic goal to provide due process and a fair and impartial hearing in all matters.



### III. THE OFFICE OF ADMINISTRATIVE COURTS

The OAC exists to provide high-quality administrative adjudication services for the State of Colorado, guaranteeing due process to the public in a timely and cost-effective manner. The OAC conducts hearings and other proceedings to resolve legal disputes involving governmental agencies and persons or businesses affected by their actions. Examples include loss of professional licenses, entitlement to public assistance, campaign financing, and disputes over Workers' Compensation benefits.

All OAC personnel shall take reasonable steps to ensure that LEP individuals have meaningful access to hearings, mediations, pre-trial matters, and all other programs and activities conducted by the OAC.

### IV. DEFINITIONS

**Bilingual personnel:** Individuals working at the OAC who use a non-English language to communicate with LEP parties or witnesses. Bilingual personnel who use their non-English language skills in communications affecting an LEP individual's substantive rights and/or understanding of procedural obligations related to OAC proceedings will have their language skills assessed for current proficiency using a standardized, professionally validated instrument. Bilingual personnel should have their oral proficiency in a non-English language or languages initially assessed and reassessed every five years, or at a reasonable interval to be determined by the OAC.

**Certified interpreter:** A linguist who is employed by a vendor requiring certification from an industry-recognized certification body and/or who is certified by a court system within the United States. Certified interpreters must be qualified in legal interpreting.

**Direct "in-language" communication:** Monolingual communication in a language other than English between a bilingual employee and an LEP person (e.g., Spanish to Spanish), with no interpretation between languages.



**Interpretation:** Listening to a message in one language and orally converting it to another language in a manner that preserves the intent and meaning of the original message.

**Language access services:** The full spectrum of oral and written services available to provide meaningful access to OAC programs and services for LEP individuals, including, but not limited to, in-person interpreter services, telephonic and video interpreter services, translation of written materials, and services provided by designated bilingual staff.

**Limited English proficient (LEP):** Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

**Primary language:** The language that an LEP individual identifies as the language in which they are most comfortable conversing.

**Remote interpreting:** Interpretation services provided where the interpreter and LEP individual are located in different physical locations, such that they are unable to see or hear each other in person. Remote interpreting includes both video remote interpreting and telephonic interpreting.

**Source language:** The language from which translation or interpretation occurs. For example, if an English document is translated into Russian, the source language is English.

**Target language:** This is the language to which translation or interpretation occurs – the language of the listener or reader. For example, if an English document is translated into Russian, the target language is Russian.

**Telephonic Interpretation:** Oral language services provided over a telephone either through a vendor or directly through a spoken language interpreter on the other end of the telephone.

**Translation:** The conversion of written communication from one language (source language) to another (target language) in a written form. An accurate translation is one that conveys the intent and essential meaning of the original text.



**Video remote interpretation:** Oral language services provided through video devices like web cameras, computers, tablets, or videophones.

**Vital Documents:** Documents that are deemed as vital to an individual's access to OAC proceedings, services and activities, or are required by law. Whether a document is considered vital may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP individual if the information in question is not provided accurately or timely.

## **V. SUMMARY OF OUR LEP SERVICE DELIVERY STRUCTURE**

### **A. RESOURCE ALLOCATION**

The OAC will consider the needs of LEP individuals in determining our budgetary requirements. We will track and maintain language-related service needs. The OAC will further review language-related service usage annually to help the agency prioritize workloads and allocate resources.

### **B. SERVICE DELIVERY**

The OAC issues orders in a wide variety of administrative law matters through three statutorily required offices: Denver, Colorado Springs and Grand Junction. Each office serves as the contact for the Colorado region that it serves, for both in-person support and telephone calls. Our administrative law judges decide cases concerning workers' compensation, public benefits, professional licensing, education, campaign finance, and many other areas for the state agencies and citizens of Colorado.

In workers' compensation matters, the OAC will provide any party or witness identifying as an LEP individual with interpretation services for the hearing, mediation, or other proceeding at no cost to the individual in accordance with OAC Procedural Rule of Workers' Compensation Hearings 21.A.



In public benefits matters involving a county department and/or the Department of Human Services or the Department of Health Care Policy and Financing, the OAC will coordinate with the counties and the respective departments to ensure that interpretation services are provided pursuant to department rules. (See Rule 3.520.1.B.2 for the Department of Human Services and Rule 3.850.46 for the Department of Health Care Policy and Financing).

For other cases that do not involve workers' compensation or public benefits before the OAC, the OAC will provide any party or witness identifying as an LEP individual with interpretation services for the hearing, mediation, or other proceeding at no cost to the individual.

The OAC has many bilingual personnel available to assist LEP individuals with pre-trial matters through direct, in-language communication, either in person or by telephone. As set forth in the definitions section, IV, above, bilingual personnel engaging in non-English language communications related to substantive rights or procedural obligations of LEP parties and/or witnesses must have their language skills assessed as described. For public benefits hearings, the OAC will coordinate with the counties and the respective departments to ensure that interpretation services are provided pursuant to department rules. For hearings in all other cases, the OAC will provide all LEP litigants or witnesses with certified legal interpreters, free of charge.

### C. INTERPRETATION SERVICES

The OAC contracts with quality-tested Colorado vendors for qualified interpretation services for its hearings and mediations. All interpreters provided by these vendors will be certified legal interpreters in the target language, in accordance with the requirements of Rule 21. Currently, the vendors can provide interpretation services in more than 100 different languages and dialects. All certified interpreters must sign the OAC Interpreter Code of Conduct and swear an oath before the administrative law judge.

The OAC offers a live, certified interpreter in litigation settings. Where a live, certified interpreter is unavailable because of exigent circumstances, e.g., the COVID-19 pandemic, the OAC offers remote interpretation. The OAC recognizes that remote interpretation is a fallback



and is not a substitute for a live, certified interpreter. In non-litigation settings, the OAC may offer remote interpretation in the absence of exigent circumstances.

If an LEP individual prefers to use their own, non-certified interpreter, such as a family member, friend, or third party, the OAC must determine whether the non-certified interpreter meets the interpreter requirements as stated OAC Rule 21. The OAC does not permit children under the age of 18 to serve as interpreters. Prior to a non-certified interpreter providing services, the administrative law judge will perform a *voir dire* of the individual using the attached questions (Appendix A). In some instances, the administrative law judge may determine that the proffered individual is not suitable as an interpreter in that particular case. Upon such a finding, the OAC will provide a certified interpreter. Where the administrative law judge makes such a finding, the non-certified interpreter may provide support to the LEP individual at the hearing, at the LEP individual's election.

Interpreters will take an oath to interpret accurately, completely, and impartially and to refrain from knowingly disclosing confidential or privileged information obtained while serving in the proceeding.

#### D. TRAINING

The OAC staff are required to know how to identify LEP individuals and the procedures for language access services. The OAC provides training to all staff to ensure effective implementation of the policies, procedures, and law relating to LEP individuals. The purpose of the training is to ensure that all OAC staff can effectively assist LEP individuals.

Staff trainings will focus on issues including:

- Identifying LEP individuals;
- Assisting LEP individuals without providing legal advice;
- LEP resources that are available to litigants and witnesses;
- Access to remote interpretation services;
- Availability of documents and notices in multiple languages; and

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- Proficiency and skills required of bilingual personnel using their non-English language abilities on the job.

The OAC will periodically review and update training needs and materials.

#### E. TRANSLATED MATERIALS

The OAC has developed a “translated resources” page on its website that provides key documents, including commonly used legal forms, in a variety of languages. The OAC has also provided a non-attorney user’s guide on its webpage in Spanish, the most common non-English language in Colorado. The OAC provides additional translated resources, such as a notification sheet translated into seven languages, advising LEP litigants that interpretation services will be provided by the OAC, free of charge, at their hearing. The OAC will continue to provide additional resources in additional languages on an annual basis.

All materials are available either electronically or in paper copy.

### VI. EVALUATION

The OAC will evaluate the use of its language access services on an annual basis. This evaluation will be two-fold: discerning trends in the target languages most frequently requested for interpretation services and identifying the financial resources necessary to ensure that all Colorado citizens are provided due process in hearings in their target language. The OAC will monitor the requested languages and compare this data to the published trends for the most common non-English languages in Colorado. By engaging in this study, the OAC should be able to ascertain if additional vendors or interpretation/translation resources are necessary to provide LEP individuals with meaningful access to all OAC proceedings.

In conjunction with section V.A of this Language Access Plan and Policy, the OAC will also use language access service data in the state budgeting process to obtain funding necessary to provide meaningful access and effective and adequate due process for all LEP individuals.

### VII. COMPLAINT PROCESS

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While the OAC is of the belief that all LEP individuals will be provided with effective language access services, it is important to identify a complaint process for those dissatisfied with the services provided. The OAC will implement a complaint process similar to the statutorily mandated process for complaints against an administrative law judge. The process will be as follows:

1. An individual dissatisfied with any aspect of the OAC's language access services will submit the complaint in writing to the Director and Chief Administrative Law Judge of the Office of Administrative Courts (Director) by mail to 1525 Sherman Street, 4<sup>th</sup> Floor, Denver, CO 80203, or by telephone at (303) 866-2000. The complaint may be made in any language.
2. The Director will investigate the complaint by:
  - a. Interviewing the complainant, using an interpreter as needed, to determine the issues alleged to have occurred regarding language access services;
  - b. Interviewing the administrative law judge assigned to the matter to determine whether, and if so, what, issues occurred regarding language access services;
  - c. Interviewing the interpreter assigned to the case to determine whether, and if so, what, issues occurred with the language access services;
  - d. Interviewing any other individual associated with the matter as needed;
  - e. Reviewing the pleadings, transcript, and/or digital recording of the hearing;
  - f. If necessary, engaging another interpreter to review the interpretation services at issue; and
  - g. Coordinating with the Department of Personnel & Administrations Human Resources Unit about the translation.
3. Upon completing the investigation, the Director will notify the individual in writing, both in English and with a translated copy of the correspondence in the individual's target language, as applicable, of the findings.

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The focus of the investigation will be on the quality, timeliness, and accuracy of the language assistance services, the extent to which the conduct of the interpreter was consistent with the interpreter code of ethics, and the judge's handling of the language-assistance needs. The outcome of the legal matter should be addressed through the OAC's appellate review process. If the Director determines that the individual was denied meaningful language access services, the Director will determine the appropriate course of action. If the Director's conduct is at issue or if the Director otherwise has a conflict, an independent adjudicator shall decide the matter and determine the appropriate course of action. Complaints and any records involving the investigation and outcome will be maintained for 5 years to detect any trends in quality of service.

The Director will use complaints as one, but not the only, method of determining the effectiveness of interpretation services of vendors and individual interpreters.

## VIII. CONTACT INFORMATION

Any feedback, concerns, or complaints can be addressed as follows:

Office of Administrative Courts  
C/O Director & Chief Judge  
1525 Sherman Street, 4<sup>th</sup> Floor  
Denver, Colorado 80203  
(303) 866-2000

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## Appendix A

Per section V.C of the Language Access Policy and Plan, where an LEP individual wishes to use their own, non-certified interpreter, an administrative law judge will perform a *voir dire* to assess whether the non-certified interpreter meets the requirements of OAC Rule 21. The *voir dire* will include the following questions:<sup>1</sup>

1. Is the interpreter fluent in the target language?
2. How is the interpreter fluent in the target language?
  - a. Example: Is the individual a native speaker of the target language or has the individual undergone schooling, and if so, how long and at what level?
3. What education has the interpreter undergone for interpretation and at what level?
4. Is the interpreter fluent in English?
5. How is the interpreter fluent in English?
  - a. Example: Is the individual a native speaker of English or has the individual undergone schooling, and if so, how long and what level?
6. How long has the interpreter interpreted?
7. Has the interpreter practiced in a legal setting previously?
  - a. Example: In what kinds of cases has the interpretation occurred and in what legal setting(s)?
8. In what situations has the interpreter practiced, if not in a legal setting?
9. Does the interpreter understand the legal terms and legal concepts that will be used at hearing?
10. Does the interpreter know the parties, witnesses, judge, or anyone else involved in this matter? If so, how?
11. Is the interpreter familiar with any of the facts in this matter? If so, how did the interpreter come to learn those facts?
12. Is the interpreter a potential witness in this matter?

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<sup>1</sup> The administrative law judge will consider the totality of the information provided in response to the *voir dire* questions in determining whether a non-certified interpreter meets the requirements of OAC Rule 21. The response to any single question will not necessarily be dispositive.



13. Does the interpreter have any interest in the outcome of this matter, whether based on financial considerations, personal loyalty, or other factors?
14. Are there any other reasons the interpreter's participation would fail to protect the interests of either party?

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