

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE UNITED STATES OF AMERICA

AND

THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA

DEPARTMENT OF JUSTICE NUMBERS 171-64-17 AND 171-64-18

I. BACKGROUND

A. In 2013, two administrative complaints were filed with the Civil Rights Division of the U.S. Department of Justice (DOJ) alleging that the Unified Judicial System of Pennsylvania (UJS), which includes the Administrative Office of Pennsylvania Courts (AOPC), was failing to provide limited English proficient (LEP)¹ litigants with qualified interpreters in civil proceedings and other language assistance in court services and programs. The complaints made no allegations regarding persons with disabilities.

B. DOJ reviewed the complaints and determined that it has jurisdiction because DOJ provides federal financial assistance to the UJS and the complaints allege national origin discrimination by the UJS in violation of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d to 2000d-7, and its implementing regulations at 28 C.F.R. Part 42, Subpart C (together, Title VI).

C. DOJ began a preliminary review of the complaints by gathering details on the handling of the complainants' cases, reviewing state law and policy, and documenting other incidents involving LEP individuals.

D. During DOJ's preliminary review, AOPC clarified its interpretation of state and federal law, including Title VI, and undertook to advise judges and staff that courts and agencies within the UJS must provide at no cost qualified interpreters in all proceedings involving an LEP party or witness, as well as in court services and programs.

E. Thereafter, the parties engaged in an informal process designed to achieve voluntary compliance with the requirements of Title VI by the UJS. Through the leadership of AOPC and with technical assistance from DOJ, the UJS has made significant progress in improving language access policies, plans, and practices in the

¹ As used herein, limited English proficient refers to individuals who, owing to national origin or ancestry, have a primary language other than English and who have a limited ability to read, write, speak, or understand English.

courts. For example:

1. AOPC hired an experienced attorney (who reports directly to the Assistant State Court Administrator) to manage improvements in language services, drafted a plan to improve service delivery, and began implementation work to improve services at the state and district levels.
2. The Supreme Court of Pennsylvania (Supreme Court) established a Language Access Advisory Group (LAAG) comprised of 19 individuals, including trial judges, a magisterial district judge, representatives of various other court components, and members of the bar and others outside of the court system, to develop and recommend plans and policies to the Supreme Court. LAAG began periodic meetings in August 2015.
3. With guidance and direction from LAAG, and after considering feedback from DOJ and the president judges of each judicial district, AOPC submitted for consideration by the Supreme Court a document titled “Language Access Plan of the Unified Judicial System of Pennsylvania (LAP).” The LAP is attached as an appendix and incorporated herein.
4. For the past two fiscal years, the Supreme Court has sought and received from the Pennsylvania General Assembly and the Governor an appropriation of \$1.5 million for the purpose of assisting in the funding of court interpreter services grants to Pennsylvania’s 60 judicial districts. The grants are intended to provide partial reimbursement to Pennsylvania’s 60 judicial districts, thereby underscoring the importance of providing effective language access services.
5. AOPC has met with DOJ periodically to discuss progress on efforts to establish or enhance language access policies, plans, and procedures for the UJS; exchange ideas and drafts; and consider DOJ’s recommendations on drafts and other improvements.

II. MUTUAL COMMITMENTS

A. The parties having agreed that a collaborative relationship has been established successfully, satisfactory progress is being made, and that they will benefit from a mutual commitment to continued collaboration, this Memorandum of Understanding (MOU) sets forth additional actions to be taken by the parties.

B. Consistent with Title VI, the UJS will maintain a policy to provide qualified interpreters at no cost in all proceedings involving LEP parties or witnesses and to provide appropriate language assistance to LEP court users in all services and programs under the authority of the UJS.

C. The LAP is an established policy of the Supreme Court and thus is binding on the UJS. Accordingly, the AOPC will post the LAP on its website, and distribute it throughout the UJS. The UJS is committed to implementing it in accordance with the timeframes stated therein.²

D. AOPC will provide to DOJ copies of draft language access policies, plans and procedures, including amendments to existing policies, plans and procedures, before they are issued or effective, and DOJ will provide to AOPC technical assistance feedback on the drafts within a reasonable time. Upon request of either party, the other party will provide additional supportive information regarding the draft or feedback and will meet in person or by telephone to discuss any concerns or questions.

E. The parties will continue to meet in person or by telephone at least every six months, and upon request of either party, to discuss the UJS's progress in executing the LAP, problems encountered, and recommendations for further improvements.

F. Within sixty (60) days of this MOU's execution, the UJS will establish and operate a Monitoring and Evaluation Team (MET) in accordance with the LAP. AOPC will convene the MET and provide it with staff support.

1. AOPC will inform DOJ in advance of MET meetings and will share with DOJ copies of agendas, minutes, rosters, and drafts provided to or received from the MET, including its committees.

2. DOJ will respond to requests for technical assistance from the MET, subject to staff availability. DOJ also may provide technical assistance without a request from the MET and its members and may participate in MET meetings with notice to AOPC.

G. Regulations.

² Although DOJ provided technical assistance to AOPC with respect to the LAP provisions relating to auxiliary aids or services to individuals who are deaf or hard of hearing, DOJ intends to actively monitor the provisions relating to providing assistance to LEP persons only.

1. Within six months, after considering DOJ proposed amendments and any recommendations of the MET, AOPC will recommend to the Supreme Court such amendments to the Administrative Regulations Governing Court Interpreters, 204 Pa. Code § 221.101 *et seq.* (Regulations), as might be necessary to conform the Regulations to the UJS's current policy of providing qualified interpreters to LEP parties in interest and witnesses in all proceedings at no charge. Upon approval of the Supreme Court, the Court Administrator will act promptly to amend the Regulations.

2. As the LAP is implemented, the parties will jointly consider the need for additional amendments to the Regulations.

H. Information and data sharing. Information and data will be shared as set forth below as a means of assisting the parties in ascertaining progress on the actions covered by this MOU and the LAP; to identify problems; and to facilitate delivery of additional technical assistance. Whenever information or data is shared, the parties agree to confer as needed to clarify facts and issues.

1. Twice a year, AOPC will share with DOJ and the MET a six-month report as to the number, nature, and disposition of language access related complaints submitted to any component of the UJS, including the judicial districts, Interpreter Certification Program office, or AOPC.

2. AOPC will share with DOJ copies of the annual Language Access Data Collection reports it creates pursuant to the LAP.

3. Within one year following the effective date of the MOU, AOPC will share with DOJ a report that includes:

- a) The efforts undertaken during the preceding year, including an update on work completed or underway, with respect to each required action in the LAP and this MOU;
- b) Any problems encountered, including an analysis of information derived from complaints and their resolution; and
- c) Plans for work to be done in the current year.

4. No later than thirty days prior to the termination of this MOU, AOPC will provide a final report to DOJ, including those items outlined in subparagraph II.H.3., together with a representation that the UJS has completed all required actions due to be completed in accordance with the LAP and any other actions

required by this MOU.

5. Upon reasonable request, the UJS, acting through AOPC, will furnish to DOJ other data, records, documents, and access to judicial facilities.

III. GENERAL TERMS

A. This MOU is a public document. The parties will make it available to any person upon request.

B. This MOU resolves DOJ complaints numbered 171-64-17 and 171-64-18 and is limited to the specific facts and issues presented in the complaints. It does not affect the UJS's continuing obligation to comply with Title VI and all other federal laws, including the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.*, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and applicable regulations, or preclude DOJ from taking appropriate action to evaluate the UJS's compliance with any laws enforced by DOJ.

C. This MOU constitutes the entire agreement between the parties on the matters raised herein, and no other statement or promise, either written or oral, made by either party or agents of either party regarding the matters raised herein that is not contained or referred to in this MOU shall be enforceable. The MOU may be amended only in writing. Failure by a party to enforce this entire MOU or any provision thereof with regard to any deadline or any other provision herein shall not be construed as a waiver of the party's right to enforce the deadlines and provisions of this MOU.

D. This MOU does not constitute an admission by the UJS with regard to any specific allegation or complaint, nor does it constitute a waiver of any rights the UJS has or may assert.

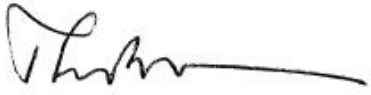
E. If at any time DOJ believes that the UJS or any of its components has failed to comply in a timely manner with any obligation under Title VI, this MOU, or the LAP, DOJ may issue to AOPC a notice of non-compliance and will attempt to resolve any issue in good faith. Should the parties not be able to resolve any issue, DOJ and the UJS may pursue any action allowed by law or this MOU.

F. This MOU is applicable to, and binding upon, the parties, their officers, agents, employees, assigns, and successors in office. The Court Administrator of Pennsylvania represents that he is authorized to bind the UJS to the terms and conditions stated in this MOU.

G. The effective date of this MOU is the date of the last signature below.

H. This MOU will terminate two years after its effective date, provided that (1) the final report referenced in Paragraph II.H.4. has been submitted and accepted; (2) the termination date is at least one year after the Regulations are amended as described in paragraph II.G.1; and 3) any language access complaints, whether or not reported under Paragraph II.H., or notices of non-compliance under Paragraph III.E., are resolved.

**For the Unified Judicial System of
Pennsylvania:**



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Dated: 4/24/17

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APPENDIX A

Language Access Plan of the Unified Judicial System of Pennsylvania
Available at pacourts.us/assets/files/setting-5486/file-5972.pdf?cb=11e5cd