

Language Access in State Courts

Colorado Summary

A. Provides interpreters free of charge to all LEP litigants and witnesses in all civil proceedings?

1. Ensures a statewide mandate is in place covering all civil proceedings? *No*

In Colorado, appointment of interpreters in state courts is governed by a directive from the Chief Justice, which states that the courts “shall” appoint interpreters in civil proceedings involving domestic abuse protection orders, dependency and neglect, paternity and support cases covered by Title IV-D of the Social Security Act, relinquishment of parental rights, and mental health, and “may” appoint interpreters “for any party to a court case where a determination of indigency has been made”¹ Although the wording of the directive is somewhat unclear, court personnel construe it as requiring the appointment of an interpreter for any party to any type of court case where a determination of indigence has been made.² Notwithstanding the statewide nature of the policy, a practitioner reports that jurisdictions vary regarding the actual practice of assigning interpreters.³ For example, the webpage of the Denver County Court states, “For all Civil cases, with the exception of courtroom 303W, you will need to provide your own interpreter.”⁴

Municipal courts, which handle ordinance violations, are exempted from the Chief Justice’s directive.⁵

2. Does not charge for interpreters in civil proceedings? *No*

Court personnel construe the chief judge’s directive as requiring the courts to pay for an interpreter for any party to any type of court case where a determination of indigence has been made.⁶ In all other circumstances, parties must find and pay for their own interpreters.⁷

¹ Ch. J. Dir. 06-03, Colo. S. Ct., Office of the Chief Justice, Colo. Jud. Dep’t, Directive Concerning Language Interpreters and Access to the Courts by Persons with Limited English Proficiency, available at http://www.courts.state.co.us/Courts/Supreme_Court/Directives/06-03.pdf.

² Interview with Emy Lopez, Administrator, Court Interpreter Program, State of Colorado (Feb. 20, 2008). The Chief Justice Directive states that “[t]he court may appoint and pay for an interpreter for any party to a court case where a determination of indigency has been made” and that for such cases, “the court shall pay for language interpretation services” in a variety of circumstances, including “[d]uring court proceedings when . . . one of the parties, a victim, a witness, or the parent and/or legal guardian of a minor charged as a juvenile is an English speaker.” Ch. J. Dir. 06-03, *supra*, §§ II.B, II.C.

³ Interview with Patricia Medige, Attorney, Migrant Farm Worker Division, Colorado Legal Services (Feb. 20, 2008).

⁴ Denver County Court, Interpreter’s Office FAQ, available at <http://www.denvergov.org/CountyCourt/FrequentlyAskedQuestions/FrequentlyAskedQuestions5/tabid/383500/Default.aspx>.

⁵ Interview with Emy Lopez, *supra*.

⁶ Interview with Emy Lopez, *supra*. See also Colorado State Judicial Branch, Form JDF 205: Motion to File Without Payment of Filing Fee/Appoint and Pay Interpreter Costs and Supporting Financial Affidavit (9/08), available at <http://www.courts.state.co.us/Forms/PDF/JDF%20205%20Motion%20to%20file%20without%20payment%20and%20supporting%20financial%20affidavit.pdf>.

3. Ensures that all LEP individuals receive interpreters in civil proceedings: Has clear guidelines for appointment, or provides an interpreter whenever one is requested? *Yes*

According to guidelines issued in 1999 by the Court Interpreter’s Task Force of the State of Colorado Judicial Department, judges should “presume a bona fide need for an interpreter when a representation is made by an attorney or by a pro se litigant that a part or witness has limited proficiency in English and requests an interpreter.”⁸ The guidelines further recommend that “[w]hen a party does not request an interpreter but appears to have a limited ability to communicate in English, the court should conduct a brief voir dire to determine the extent of the ‘limitation,’” and that “[w]hen any doubt exists about the ability of persons to comprehend proceedings fully or adequately express them in English, interpreters should be appointed.”⁹ Court personnel confirm that interpreters are generally assigned whenever parties or attorneys request them, or judges feel that they are needed.¹⁰ However, a practitioner reports that it is generally left to litigants to request interpreters, indicating that judges rarely make their own determinations that interpreters are needed.¹¹

B. Ensures that interpreters are competent by testing before appointing an interpreter in all civil proceedings? *Yes, but in some cases uses inadvisable method of having individual judges voir dire interpreters.*

The Court Interpreter Program Administrator (CIPA), as part of the Colorado Judicial Department, maintains a statewide roster of “professionally certified,” “professionally qualified,” or “conditionally approved” court interpreters:¹²

- Interpreters are deemed “professionally certified” if they have 1) passed one of the oral proficiency exams explicitly approved by the Colorado Justice Department, which test proficiency in sight, consecutive and simultaneous certification; and 2) passed a written exam testing English vocabulary, criminal procedure and court interpreter ethics.¹³
- Interpreters are deemed “professionally qualified” if they have achieved a score of 60% or better on the certification exam.¹⁴

⁷ Ch. J. Dir. 06-03, *supra*, § II.E.

⁸ Court Interpreter’s Task Force, Colo. Jud. Dep’t, Court Interpretation: Guides for Policy and Practice in the State Courts 8-9 (July 12, 1999), <http://www.courts.state.co.us/chs/hr/interpreters/interpreterguidelines.pdf>.

⁹ Court Interpreter’s Task Force, Colo. Jud. Dep’t, Court Interpretation: Guides for Policy and Practice in the State Courts 8-9 (July 12, 1999), <http://www.courts.state.co.us/chs/hr/interpreters/interpreterguidelines.pdf>.

¹⁰ Interview with Emy Lopez, *supra*.

¹¹ Interview with Patricia Medige, *supra*.

¹² Roster available at: http://www.courts.state.co.us/Administration/Custom.cfm/Unit/interp/Page_ID/117.

¹³ Chief Justice Directive 06-03, *supra*, § I.D; Office of the State Ct. Admin., Colo. Court Interpreter Program, Frequently Asked Questions Regarding Certification Requirements, Testing, and Employment, available at http://www.courts.state.co.us/userfiles/File/Interpreters/Program_Information/Certification_Information.pdf.

¹⁴ Ch. J. Dir. 06-03, *supra*, § I.E; Colo. Jud. Dep’t, Active Court Interpreter Roster – Languages Other Than Spanish, available at http://www.courts.state.co.us/userfiles/File/Administration/HR/Interpreters/Language_Interpreter_Directories/ActiveLOTSCourtInterpreterRoster2-08.pdf.

- Interpreters are deemed “conditionally approved” if they have achieved a score of 50% or better on the certification exam.¹⁵

Additionally, all court-provided interpreters must attend an ethics and protocol training and “undergo a background investigation and sign an oath to abide by the Code of Professional Responsibility for Interpreters.”¹⁶

Courts are urged, but not required, to designate a coordinator of interpreter services to assess the skills of interpreters who do not appear on the roster.¹⁷ As a last resort, courts are instructed to conduct a voir dire to ascertain the interpreter’s credentials.¹⁸

Colorado is a member of the Consortium for State Court Interpreter Certification, and accepts Consortium certification testing, federal court certification, National Association of Judiciary Interpreters and Translators certification, and recognizes certification by other Consortium states with similar requirements.

The Brennan Center for Justice report, Language Access in State Courts, contains guidelines for the provision of court interpreters in civil cases. It also contains aggregate information – in the form of United States maps – regarding the extent to which the 35 states with the highest proportion of limited English proficient people (as a percentage of population) comply with the guidelines regarding providing interpreters in all civil cases and providing them free of charge.

This series of “state summaries” contains additional, detailed information about the extent to which the 35 states comply with those guidelines, and with the guideline regarding ensuring that interpreters are competent.

(last updated November 2, 2009)

¹⁵ Ch. J. Dir. 06-03, *supra*, § I.F; Colorado Judicial Department, Active Court Interpreter Roster – Languages Other Than Spanish, available at http://www.courts.state.co.us/userfiles/File/Administration/HR/Interpreters/Language_Interpreter_Directories/ActiveLOTSCourtInterpreterRoster2-08.pdf.

¹⁶ Ch. J. Dir. 06-03, *supra*; Colo. Jud. Dep’t, Active Court Interpreter Roster – Languages Other Than Spanish, available at http://www.courts.state.co.us/userfiles/File/Administration/HR/Interpreters/Language_Interpreter_Directories/ActiveLOTSCourtInterpreterRoster2-08.pdf.

¹⁷ Court Interpreter’s Task Force, State of Colo. Jud. Dep’t, Court Interpretation: Guides for Policy and Practice in the State Courts, pp. 9-10 (July 12, 1999), <http://www.courts.state.co.us/chs/hr/interpreters/interpreterguidelines.pdf>.

¹⁸ Ch. J. Dir. 06-03, *supra*; Court Interpreter’s Task Force, State of Colo. Jud. Dep’t, Court Interpretation: Guides for Policy and Practice in the State Courts 8-9 (July 12, 1999), Fig. 6.2, available at <http://www.courts.state.co.us/chs/hr/interpreters/interpreterguidelines.pdf>.