

**Ferguson Municipal Court
Policy and Procedure Manual**

FMC Policy 7.0: Limited English Proficiency Services

Date issued:

PURPOSE: This policy governs how this Court shall provide services to those with limited English proficiency (LEP). It is intended to ensure that such persons are able to have meaningful access to court proceedings and offices, the Court is able to ascertain the facts accurately, and to avoid the appearance of bias.

DEFINITIONS

- A. **Authorized Interpreter:** An unbiased individual with the requisite skills as determined by the Office of the State Courts Administrator (OSCA) or the Court, who is appointed by the Court to interpret in a proceeding with a limited English proficient party or witness. Authorized interpreters may be categorized as follows, pursuant to Supreme Court Operating Rule 19.04:
 - 1. **Certified interpreter:** possesses the requisite skills and training as demonstrated by passing National Center for State Courts written and oral interpreter exams.
 - 2. **Registered interpreter:** has passed the NCSC written exam and demonstrated bilingual skill through a standardized oral proficiency exam, but speaks a language for which an oral interpreter exam is not available.
 - 3. **Qualified interpreter:** an impartial and unbiased person who is readily able to render a complete and accurate interpretation in matters for which no Certified or Registered Interpreter is available.
- B. **Interpretation:** The accurate and complete, unrehearsed transmission of an oral message from one language to an oral message in another language.
- C. **Language Assistance:** Communication assistance provided by the Court to limited English proficient parties, witnesses, and court users, which may include approved bilingual staff, authorized interpreters, telephone interpreters, and translation of vital written documents including signage.
- D. **Limited English Proficient (LEP):** An individual who does not speak English as their primary language and has a limited ability to read, speak, write, or understand English, including a "non-English speaking person," as defined by §476.800(3), RSMo.
- E. **Party:** A defendant; the parent, guardian, or custodian of a minor defendant; and the guardian or custodian of an incapacitated defendant.
- F. **Sight Translation:** Reading a written document in one language and rendering it orally into another language by a court interpreter.

- G. Translation: The accurate and complete rendering of written text from one language into written text of another language.
- H. Witness: A person expected to testify in a proceeding; the alleged victim in a non-traffic violation matter; the parent, guardian, or custodian of a minor victim or witness; and the guardian or custodian of an incapacitated victim or witness.

POLICY: The Court shall appoint an authorized interpreter in any proceeding involving a limited English proficient party or witness, at no charge to the Defendant, including virtual appearances if utilized. The Court shall provide language assistance for LEP court users to communicate with court employees and with respect to vital documents.

PROCEDURES:

A. Notice

1. Any notice to a party or witness to appear, including a citation, summons, arrest notification, subpoena, continuance notification, or court letter shall include or be supplemented with a notice that the Court will provide an authorized interpreter at no charge upon notice that a party or witness is LEP, and the means by which to request an interpreter.
2. The Court shall maintain conspicuous multilingual signage in or near the entrance to the courtroom stating its policy to provide authorized interpreters in proceedings at no cost and include the policy on the Court's webpage.
3. The Judge or other Court personnel will announce before or at the beginning all court sessions, addressing everyone in the courtroom, that the Court will provide an authorized interpreter at no charge upon notice that a party or witness is LEP, and the means by which to request an interpreter.

B. Language Assistance Outside the Courtroom

1. The Court shall maintain conspicuous signage in Spanish and Bosnian in court offices stating court policy to provide language assistance for LEP court users. In addition, "I Speak" posters or placards shall be conspicuously displayed so that LEP court users may indicate their primary language. If another language is identified, court offices will have access to print and provide other multilingual court policy in the identified language at that time.
2. In-person communication with LEP court users by court staff may be conducted directly by authorized bilingual staff, through the use of OSCA-provided telephone interpreting service, or with assistance from authorized interpreters.

The Court Administrator shall insure that protocols are provided to all employees to easily access telephone interpreters.

3. The Court Administrator shall provide translations of vital forms and documents, and posted information, in the languages ordinarily encountered according to the log described below at Part C.4.

C. Interpreter Needs Data Collection

1. Any entity initiating a court proceeding shall include in or with the initial filing document information reasonably known to it as to the LEP status and language of the defendant and any witness involved in the case.
2. Any LEP party, party who intends to call an LEP witness, or party to a case with an LEP victim shall notify the Court Administrator of the need for a court interpreter.
3. The Court Administrator shall record on the docket and case files all interpreter needs data reported at filing, interpreter requests prior to or during proceedings, and whether the defendant has required an interpreter in prior proceedings. However, docket information available to the public shall not contain information as to the LEP status of any person.
4. The Court Administrator will keep a log that documents (i) the case number where LEP assistance was requested or used, (ii) the language needed, (iii) the professional language services offered or used, (iv) the interpreter's name and phone number, and (v) whether the language service successfully facilitated the participation of the LEP person(s) that utilized it.

D. Pre-Appearance Hearing Procedures

1. The Court Administrator shall schedule an authorized interpreter for any proceeding for which the file or docket indicates an interpreter is needed or for which a party has made a request.
 - i. The Court Administrator shall schedule a certified or registered interpreter whenever one is available in accordance with Supreme Court Operating Rule 19.04(b). A qualified interpreter may be scheduled only if a certified or registered interpreter is not available.
 - ii. The Court Administrator will determine the anticipated length of the proceeding and schedule two interpreters if the proceeding may exceed two hours.

- iii. The Court Administrator will re-confirm the need for the interpreter at least 48 hours in advance of the scheduled hearing.
2. Any party with knowledge that a docketed matter will not be called by the Judge or involves an LEP witness who will not appear shall notify the Court Administrator as soon as practicable. If the matter involves an LEP victim, the interpreter should remain available, irrespective of whether the victim is expected to testify.

E. Day of Court Procedures

1. If an authorized interpreter was assigned:
 - a. All parties involved in the case to which an interpreter was assigned shall arrive on time for the court hearing.
 - b. At check in, the Court Administrator shall
 - i. Provide the LEP individual with an OSCA Court Interpreter Complaint form and such translated versions of paperwork as are available and shall refer the individual to meet with the interpreter;
 - ii. Provide the interpreter with the same paperwork given to defendants, including any relevant translations, and refer the interpreter to the LEP individual and their counsel, if any, so that the interpreter may confirm the primary language of the individual, explain the role of the interpreter, obtain information as to the nature and duration of the proceeding, and any documents that may need to be sight translated.
 - c. The interpreter shall interpret for all advisements and announcements made to the courtroom as well as during the assigned case.
 - d. The Judge must determine that the assigned interpreter has no conflict or bias with respect to the parties, witnesses, or subject matter of the case.
 - e. The Judge must conduct voir dire to ascertain that any registered or qualified interpreter possesses the skills and knowledge to interpret for the proceeding. (See attachment Bench Card: Courtroom Interpreting). Voir dire is not appropriate for OSCA certified interpreters.
 - f. The Judge may only appoint an authorized interpreter who has no conflict or bias in the proceeding; friends, relatives, advocates, municipal officials, or attorneys for the party shall not be appointed to interpret.

- g. The Judge shall swear in the interpreter (see sample language in bench card).
- h. Unless a court interpreter team has been appointed, the Judge must take a 10-minute break every thirty minutes to reduce interpreter fatigue that will otherwise reduce the accuracy of the interpretation below acceptable standards. If a team is interpreting, they must be permitted to rotate every 30 minutes or less.
- i. The Court Administrator will note the date and times of arrival and departure of the interpreter for the court file and for billing purposes for the Court. There is no cost to the defendant or the LEP person.

2. If an authorized interpreter was not assigned but it appears a party or witness is limited English proficient and may not understand the proceeding or be understood by the Court or other parties:
 - a. The Judge may ask questions to determine if an interpreter is needed. (See attachment Bench Card: Courtroom Interpreting for questions¹).
 - b. If the person requests an interpreter, has difficulty answering the questions, or if the Court cannot understand the person's spoken English, the case shall be continued and an interpreter will be ordered for the next proceeding.

**Attachment: Bench Card: Courtroom Interpreting
Know Your Rights Sheet
Supplement to Citations or Summons**



William Goldstein
Ferguson Municipal Judge



Date

¹ During voir dire to ascertain the need for an interpreter, the Judge should not ask questions that might elicit a response relevant to the case. For example, a judge should not ask a traffic defendant how he or she came to court that day.