LANGUAGE ACCESS IN COURTS

National Consortium on Racial and Ethnic Fairness in the Courts
June 2014
“Simple justice requires that public funds, to which taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination.”

- President John F. Kennedy, June 11, 1963
Title VI - Statute

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Civil Rights Act of 1964, Title VI, 42 U.S.C. § 2000d
Title VI Regulations

- Title VI authorizes agencies to enact regulations to effectuate law
- Subject to DOJ approval (EO 12250)
- Regulations prohibit:
  - Intentional discrimination/disparate treatment
  - Disparate impact (use of criteria or methods of administration which have discriminatory effects)
DOJ Courts Initiative

- Changing norms
- Enforcement
- Technical assistance
- Engagement with partners
- Outreach and training
2010 DOJ Letter to State Courts

- Inadequate progress nationally
- All proceedings covered
  - Includes court-annexed proceedings
  - Interpreter fees not charged to users
- Court operations and programs
  - Includes court appointed officials
Changing Norms

- ABA Standards - 2012
- NCSC National Call to Action - 2013
- DOJ docket and technical assistance
- Justice Index - 2014 (justiceindex.org)
Limited English - 50 State Map

State Filtering Tool
Select by Score
Top
All
Select by State
(All)

Ranking by State
DE 98.9
MN 98.9
ND 98.9
MD 98.2
DC 97.6
WA 97.6
VT 95.3
CT 93.6
ND 98.2
MI 98.2
DE 98.9
VA 94.9

Distribution by State, Scaled to 100

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Persistent issues

- Partial or full coverage in civil?
  - Proceedings without judges
- Interpreter fees and the indigence trap
- Justice outside the courtroom
  - And outside the courthouse
- Assistance provided upon request
- Bilingual forms for informational purposes only
Court Ops Categories

- Court-annexed ADR’s (non proceedings)
- Non-proceedings specialty courts
- Court programs/services
  - Court ordered
  - Court offered
- Court appointed professionals
Court Ops Categories

• Controlled
  – Staff, volunteers, contracted services
  – Court provided space
  – Licensed, court specs, court appointment
  – Party paid, court referred

• Influenced

• Remedied
3 legs of service delivery

- Notice of language rights
  - Direct
  - Public
- Mandatory language data gathering
  - At filing
  - Staff contact
- Request
Managing: the 3 P’s

- Policy
- Plan
- Procedure
COLLABORATION

Changing Norms and Ensuring Meaningful Access

State and federal officials

NCSC/COSCA/CCJ and other court organizations.

NAJIT/ATA and other language organizations

ABA and other bar organizations

Access to Justice Commissions, DOJ A2J, and other stakeholders

NLADA, Legal Services, N-LAAN, and other attorneys
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