LINCOLN COUNTY DISTRICT COURT
FY11 LIMITED ENGLISH PROFICIENCY (LEP) PLAN

I. LEGAL BASIS AND PURPOSE

This document serves as the plan for Lincoln County District Court to provide services to limited English proficiency (LEP) individuals in compliance with Federal law.[1] The purpose of this plan is to provide a framework for the provision of timely and reasonable language assistance to LEP persons who come in contact with Lincoln County District Court.

This plan was developed to ensure equal access to court services for persons with limited English proficiency and hearing impaired persons. Although deaf and hard of hearing individuals are covered under the Americans with Disabilities Act (ADA) rather than Title VI of the Civil Rights Act, they have been included in this plan insofar as they relate to the Minnesota Judicial Branch Court Interpreter Program.

II. NEEDS ASSESSMENT

A. <u>Statewide</u>

The Minnesota Judicial Branch provides court services to a wide range of persons, including people who do not speak English or who are hearing impaired. Service providers include the Minnesota Supreme Court, the Court of Appeals and trial courts in the ten judicial districts.

According to the Minnesota Court Interpreter Program, which tracks court interpreter usage, the most widely used languages for interpreters in Minnesota Courts in **2010** were (in descending order of frequency):

1. Spanish
2. Somali
3. Hmong
4. American Sign Language
5. Vietnamese

[1] Title VI of the Civil Rights Act of 1964; 45 C.F.R. § 80 et seq; and 28 C.F.R. § 42 et seq.

B. <u>Lincoln County District Court</u>

1. Spanish

III. LANGUAGE ASSISTANCE RESOURCES

A. <u>Interpreters Used In the Courtroom</u>

By Minnesota statute, it is "the policy of this State that the constitutional rights of persons disabled in communication cannot be fully protected unless qualified interpreters are available to assist them in legal proceedings." Minn. Stat. § 611.30 (2009). A person "disabled in communication" is one who, because of difficulty in speaking or comprehending the English language, is unable to fully understand the proceedings in which the person is required to participate, or when named as a party to a legal proceeding, is unable by reason of the deficiency to obtain due process of law. Minn. Stat. § 546.42; 611.31 (2009).

In the Lincoln County District Court, sign language interpreters will be provided at court expense for all deaf court customers in compliance with the Americans with Disabilities Act. Spoken language interpreters will be provided at no cost to the court customers who are "disabled in communication" under the following circumstances:

- Interpreters will be provided at no cost for litigants and witnesses in criminal hearings;
- Interpreters will be provided at no cost for litigants and witnesses in civil hearings
- Interpreters will be provided at no cost for litigants and witnesses in juvenile hearings; and
- Interpreters will be provided at no cost for litigants and witnesses in child support hearings.

Alternatively, Minnesota Statutes Section 611.33, subd. 3 requires that "[p]ayment for any activities requiring interpreter services on behalf of law enforcement, the Board of Public Defense, prosecutors, or corrections agents other than court appearances is the responsibility of the agency that requested the services."

1. Determining the Need for an Interpreter in the Courtroom

There are various ways that the Lincoln County District Court will determine whether an LEP court customer needs an interpreter for a court hearing.

First, the LEP person may request an interpreter. The Lincoln County District Court displays a sign translated into Minnesota's most frequently used languages which states: "*You may have the right to a court-appointed interpreter in a court case. Please ask someone at the court information desk.*" The Lincoln County District Court displays this sign at the following location: On the bulletin board immediately outside the Lincoln County Court Administration Office.

Second, court personnel and judges may determine that an interpreter is appropriate for a court hearing. Many people who need an interpreter will not request one because they do not

realize that interpreters are available, or because they do not recognize the level of English proficiency or communication skills needed to understand the court proceeding. Therefore, when it appears that an individual has any difficulty communicating, the court administrator or judge should err on the side of providing an interpreter to ensure full access to the courts.

Third, the Minnesota Court Information System (MNCIS), which is the statewide case management system, will track interpreter needs through case records and party records. Case record interpreter flags will assist staff in making sure that they know an interpreter is needed for the next hearing on a particular case. Party record interpreter information stays with the party and would be available statewide for future filings and party search results for that same individual.

Finally, outside agencies such as probation, attorneys, social workers or correctional facilities notify the court about an LEP individual's need for an interpreter for an upcoming a court hearing.

2. Court Interpreter Qualifications

The Lincoln County District Court hires interpreters for courtroom hearings in compliance with the rules and policies set forth by the Minnesota Court Interpreter Program (CIP) and Rule 8 of the General Rules of Practice for the District Courts. The CIP maintains a statewide roster of interpreters who may work in the courts. This roster is available to court staff on CourtNet and the Minnesota Judicial Branch website. Interpreters on the roster have passed the court's ethics exam, attended an orientation session and signed a sworn affidavit of professional responsibility.

In accordance with Rule 8, the Lincoln County District Court appoints "certified" interpreters when available. To be certified, an interpreter must first meet the requirements to be on the roster, and secondly must pass a rigorous exam testing linguistic and interpreting skills. Minnesota court certified interpreters are currently available in the following languages: Spanish, Somali, Hmong, American Sign Language, Vietnamese, Russian and Mandarin Chinese. When the Lincoln County District Court has made a "diligent" effort to find a certified court interpreter and none is available, the Lincoln County District Court then seeks a non-certified court interpreter who is on the statewide roster.

In compliance with Rule 8, the Lincoln County District Court appoints non-certified interpreters who are not listed on the roster *only* when certified and rostered interpreters are unavailable. Whenever a non-certified interpreter is used in the courtroom, judges are encouraged to inquire into the interpreter's skills, professional experience, and potential conflicts of interest.

As a last resort, the Lincoln County District Court may also use interactive television (ITV) or telephone interpreting if no interpreters are available in person. Bilingual staff members who are not on the statewide roster are never used to interpret in court. However, they may assist in securing an interpreter if necessary.

More information on court interpreters is available to court personnel in the "Best Practices Manual on Interpreters in the Minnesota State Court System," published and maintained by the State Court Administrator's Office.

B. Spoken Language Services Outside The Courtroom

The Lincoln County District Court is also responsible for taking reasonable steps to ensure that LEP individuals have meaningful access to services outside the courtroom. This is perhaps the most challenging situation facing court staff, because in most situations they are charged with assisting LEP individuals without an interpreter. LEP individuals may come in contact with court personnel via the phone, counter or other means. To that end, the Lincoln County District Court has the following resources to help LEP individuals and court staff communicate with each other:

The following resources are available:

- Language Identification Card
- Multi-lingual employees
- Language Line
- Face to face interpreters

Language Identification Card
The "Language Identification Card" is used to aid in identifying the language that the LEP individual speaks.

Multi-Lingual Employees
Court employees may be available to voluntarily assist in interpreting should an LEP individual require assistance.

Employees on this list have offered their skills and are not required to provide interpretation as an additional responsibility to their jobs. They should offer their services only if it does not significantly interfere with their primary job duties. They should not interpret in situations requiring a language level superior to their own.

Language Line
When face-to-face interpreting is not appropriate or unavailable for assisting the LEP individual, the Court employee may make use of the Office of Enterprise Technology (OET) Language Line.

Face to Face Interpreters
If circumstances permit the use of a face to face interpreter, Court employees can access the Minnesota Interpreter Roster at the Minnesota Judicial Branch public website and the Intranet (CourtNet) for court proceedings.

C. Translated Forms & Documents

The Minnesota Courts understand the importance of translating forms and documents so that LEP individuals have greater access to the courts' services. The Lincoln County District Court currently has the following forms translated into commonly used languages:

- Criminal Court Forms have been translated into Cambodian, Hmong, Lao, Russian, Somali, Spanish and Vietnamese. These forms include Rule 15 Plea Petitions (Felony and Gross Misdemeanor); Felony, Gross Misdemeanor, Misdemeanor, and Petty Misdemeanor Statements of Rights; Gross Misdemeanor DUI Statement of Rights; Probation Violation Statement of Rights
- Statement of Rights for First Court Appearance on Paternity Proceedings: Cambodian, Hmong, Lao, Russian, Somali and Spanish

When interpreters are hired for hearings, they are expected to provide sight translations for corresponding documentation to LEP individuals.

IV. TRAINING

The Minnesota Judicial Branch is committed to providing LEP training opportunities for all employees who may come in contact with LEP individuals. The LEP Coordinator will work with the Education and Organizational Development division to ensure that new employees are trained on the LEP plan as part of the mandatory Judicial Branch New Employee Orientation. Additionally, judges are trained on interpreter issues at the New Judge Orientation.

The Minnesota Judicial Branch provides periodic training for front line staff to connect LEP individuals with the appropriate resources such as:

- "Language Identification Card"
- Multi-lingual employees
- Language Line
- Face to face interpreters
- Deaf and hard of hearing accommodations
- Translated forms and documents
- Access to Self-Help Desk for completing court forms.

V. PUBLIC NOTIFICATION AND EVALUATION OF LEP PLAN

A. LEP Plan Approval & Notification

The Lincoln County District Court's LEP Plan has been approved by the District Administrator, and a copy has been forwarded to the State Court Administrator's Office (SCAO). Any revisions to the plan shall be submitted to the District Administrator for approval, and then forwarded to the SCAO. Copies of Lincoln County District Court's LEP plan will be provided upon request. In addition, Lincoln County District Court will post this Plan on its website, and the SCAO will post it on the Minnesota Judicial Branch's public website.

B. Evaluation of the LEP Plan

The LEP Coordinator will review this plan on an annual basis and make any changes based on the review.

The evaluation will include identification of any problem areas and development of required corrective action strategies. Elements of the evaluation may include:

- Assessing the number of LEP persons requesting court interpreters in Minnesota Courts
- Assessing current language needs to determine if additional services or translated materials should be provided
- Assessing whether staff members adequately understand LEP policies and procedures and how to carry them out
- Gathering feedback from LEP communities

Any revisions made to the plan will be communicated by posting on the Judicial Branch public website.

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The effective date of this LEP plan is **September 1, 2010.**