

# Conference of Chief Justices Conference of State Court Administrators

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November 24, 2010

Hon. Thomas E. Perez  
Civil Rights Division  
Office of the Assistant Attorney General  
United States Department of Justice  
Robert F. Kennedy Building  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Assistant Attorney General Perez:

On behalf of Conference of Chief Justices and the Conference of State Court Administrators, we would like to extend to you our appreciation for taking time to meet and discuss the content of your letter of August 16, 2010 regarding limited English proficiency (LEP) obligations under Title VI of the Civil Rights Act of 1964. Not only are we grateful to you for taking time to meet with us, but also to all the members of the Department's staff that attended the meeting. Please extend our thanks to them. The fact that you brought so many individuals to the meeting speaks highly of the Department's commitment to this issue, both externally to federal fund recipients and internally to its own operations.

As you could tell from the tone of our discussions, the state courts are committed to doing as much as possible to improve access to justice for LEP individuals. The task before us is made more daunting by the states' current fiscal problems. By constitution, many states are required to either adopt or adopt and maintain balanced budgets. Consequently, most state court leaders are not asking the question "What services can we expand?", but rather "How are we going to maintain our current level of services?" and "What services will we be forced to cut?". We know you understand this challenge given your experience in state government. However, notwithstanding the budget realities we face, the state courts remain committed to expanding access to justice for LEP individuals. Some 41 state courts now participate in the Consortium for Language Access in the Courts, which offers examinations and certification in 16 languages. Indeed, the federal courts access this Consortium for its own needs. The Consortium may, in fact, be an area in which we can partner together for greater cooperation between the federal judiciary, the Department, and state courts – increasing access to the Consortium for all judicial institutions.

While our discussion was wide-ranging and the tasks before us significant, we did discuss several specific, and we believe practical steps, the Department could take that would assist us in improving access to justice for LEP individuals. Those steps include the following:

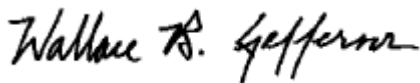
- A letter to state legislative leaders and state executives outlining the Title VI obligations of federal fund recipients would be not only helpful, but essential to our mutual goal. As we discussed, state courts are not appropriators. Our best intentions will not amount to much if we are deprived of needed resources. Moreover, state court leaders cannot carry the political obligation for this alone. Many state courts already have a contentious relationship with their respective legislatures sometimes by the mere design of government and other times as the result of particular case decisions legislators find objectionable. A letter from the Department to state leaders would provide significant political help in this area by converting the discussion from simply a demand for more funding to a discussion of the needed infrastructure for the state courts.
- You recognized the need to provide more direction to the Department of Justice program administrators regarding the importance of LEP services as a critical consideration in DOJ funding programs. We were struck by at least one comment at the meeting that indicated that providing LEP funding “was not on the radar screen” of every division within the Department. If this is a departmental initiative, it is critical that all divisions within the Department should make providing LEP services a primary consideration in designing programs and dispensing federal money.
- It would help if your office would send notice to those state administering agencies charged with allocating and administering DOJ grant programs that access to justice for LEP individuals is a fundamental consideration in dispersing federal grant funds. In a time of dwindling state resources, law enforcement and prosecution authorities will seek even greater access to federal funds. State courts have historically had difficulty accessing such funding. Providing LEP services cannot compete with police cars and drug dogs, particularly when funding is at a premium. Only with a strong and affirmative statement from the Department will more states make federal funding available to us for this purpose.
- We know what works in other contexts. If the Department would support an initiative by the Conference of Chief Justices and Conference of State Court Administrators to create a “Court Improvement Program (CIP) for LEP Services,” we would see immediate progress. We saw great strides in child welfare initiatives when the CIP for child welfare initiatives was inaugurated. In that vein, we have proposed legislation that follows the CIP model, the State Court Interpreter Grant Program Act (S. 1329) to the Congress. The Department’s support for this initiative would be extremely helpful. Under our proposal, a \$15,000,000/year direct grant program would be established to fund innovative programs and approaches to provide access to justice for LEP individuals appearing in state courts.
- As you noted, the Department could allocate a portion of its discretionary money to help fund state court initiated pilot programs designed to promote access to justice for LEP individuals. Such money could be used, for example, to establish a demonstration project creating public LEP resource centers. Some of the money could be used to fund state support for new Consortium initiatives. We appreciate, too, your willingness to explore funding alternatives throughout other state agencies, such as the Department of Commerce.
- We seemed to agree that the most critical need for LEP services exists where indigent citizens confront the judicial system. In that regard, we urge that the Department adopt the federal-court model and permit courts to recoup the costs of interpreters from parties who can afford to pay. Doing so would free up resources so that we can address the concerns of those who cannot afford to pay.

- The Department might consider creating a report identifying the best LEP practices, whether they occur in federal agencies or state courts. The solution to the challenges we face will come through sharing information across state lines and between the federal government and the states. We are compiling information on this topic ourselves. Accumulating this information may spur new innovation as state courts embrace established practices and create new programs.
- We discussed the Department's sharing with state chief justices and state court administrators information about civil rights complaints filed in the respective jurisdictions regarding access to justice for LEP individuals. If we knew the number and nature of complaints, we could begin targeting the specific problems with funding (if available) and with direct action. We also believe that many problems can be averted with informal communication to the chiefs and court administrators.

During your closing comments you noted that success is dependent on leadership at the state level. We wholly endorse and support that perspective. We also encourage greater leadership at the federal level – particularly an acknowledgment that the federal courts continue to operate under practices and a legislative scheme that the Department finds objectionable at the state level. We should be working in tandem to resolve this issue across all jurisdictions.

Obviously this is a complex and multi-faceted problem that can only be addressed together and by a constant recommitment to making our justice system better. In that vein, we hope that our meeting is the beginning of a continuous dialogue and continuing efforts to improve access to justice. In speaking for our colleagues, we stand ready to work with you in making the best judicial system in the world more accessible. Should you have any questions or concerns, please contact us or Kay Farley of the National Center for State Courts. Ms. Farley can be reached at (202) 684-2622 or [kfarley@ncsc.org](mailto:kfarley@ncsc.org). We look forward to our next meeting when we can all report on the progress we have made to improve access to justice for all people.

Sincerely,



President  
Conference of Chief Justices



President  
Conference of State Court Administrators