

By Kulsum Ameji and Ami Gandhi

Pro Bono Work in a **Multicultural City**

# Helping Clients With Limited English Proficiency



**W**alking out of the Daley Center on any given day, you may come across cultural celebrations from Germany, Mexico, Thailand, or Turkey. This milieu mirrors Chicago's longstanding role as an immigrant portal. From vibrant residential neighborhoods like Pilsen, Bridgeview and Chinatown to restaurants in Little Italy, our city is a reflection of its constituent cultures. As attorneys, our legal practice is shaped by this landscape. Whether we are in private practice, public interest, or government settings, the diversity of our city inevitably impacts our clients and the legal system.

It is now imperative for legal professionals to effectively serve clients from a variety of cultures and backgrounds, including clients who have limited English proficiency (LEP). This article will provide a brief overview of the challenges faced by LEP clients, describe current local efforts to address these issues, explain how pro bono attorneys can get involved, and provide concrete tips attorneys can use when working with LEP clients and interpreters.

### **The Challenges of Linguistic Diversity**

Linguistic diversity is a key facet of the growing diversity in the Chicago area,

both in the city and the suburbs. Over one million people in the Chicago metropolitan area have limited English proficiency. Nearly one-third of Chicago Public Schools students have been considered English Language Learners at some point during their education. Most Chicagoans with limited English proficiency speak Spanish. Other language groups include: Polish, Chinese (including Mandarin and Cantonese), French, Korean, Tagalog, Russian, Vietnamese, and South Asian languages, such as Hindi, Urdu, and Gujarati.

Various laws provide that LEP individuals are entitled to language assistance

in particular settings—including the legal system. According to the Supreme Court's decision in *Lau v. Nichols*, 414 U.S. 563 (1974), failing to take reasonable steps to ensure meaningful language access for LEP individuals is a form of national origin discrimination that is prohibited by Title VI of the federal Civil Rights Act (42 U.S.C. § 2000d *et seq.*). As the United States Department of Justice has stated, “[d]ispensing justice fairly, efficiently, and accurately is a cornerstone of the judiciary. Policies and practices that deny LEP persons meaningful access to the courts undermine that cornerstone.” (Dep’t of Justice Guidance Letter to State Courts, Aug. 16, 2010, available at [www.lep.gov](http://www.lep.gov).)

Public interest organizations routinely hear accounts of how language access barriers lead to injustice. Many LEP individuals are unfamiliar with the American legal system and their rights under the law. From a senior citizen cheated in a reverse mortgage scam to a *pro se* party held in contempt due to not understanding a court order, language and cultural barriers may place clients at a severe disadvantage in legal proceedings.

It is well documented that numerous obstacles exist for low-income people seeking legal help for such issues. The national Justice Gap study found that government-funded civil legal aid offices turned away at least as many eligible clients as they serve, due to lack of resources. In the case of low-income LEP individuals, these obstacles are exacerbated. Language barriers affect every stage of a legal problem—from knowing that a violation of rights has occurred to learning of potential legal relief, to writing a letter, to reading a summons, to appearing in court.

This language gap presents a great challenge: how can the legal system be accessible to such a large and diverse population? How can language access be provided across the spectrum of legal representation and proceedings? What can attorneys representing LEP clients do to help? What role can pro bono attorneys play?

### Progress on the Language Access Front

Many organizations and individuals are working to improve language access to government services such as courts, polls, hospitals, and schools. The authors of this article collaborate with Asian Americans Advancing Justice—Chicago, Korean American Women In Need (KAN-WIN), Apna Ghar, DePaul Asylum & Immigration Law Clinic, and community volunteers to improve language access to the legal system. Legal aid providers continue to make progress in addressing the needs of Spanish-speaking client communities; for example, a Spanish language version of Illinois Legal Aid Online has been launched at [ayudalegalil.org](http://ayudalegalil.org).

Moreover, The Illinois Supreme Court Access to Justice Commission is currently creating a language access plan to improve Illinois state courts’ provision of effective language assistance to LEP individuals. The Circuit Court of Cook County recently announced a new Court Access Initiative, and Cook County’s Domestic Violence courthouse has a subcommittee focused on linguistic resources. These efforts reflect that meaningful language assistance is a critical aspect of access to justice.

### A Unique Opportunity for Pro Bono Attorneys

Pro bono attorneys can play a critical role in meeting the needs of LEP clients. Attorneys already have many of the necessary skills: the ability to spot legal issues, apply the substantive law, and navigate the legal process.

Working with LEP clients can be a profoundly rewarding experience for attorneys because you can help someone who is disenfranchised on the most basic level—the ability to even *communicate* their experiences, legal issues, and goals. This is an opportunity to enhance your ability to work with diverse clients and unique legal issues. Stepping outside of your comfort zone forces you to reflect on and improve how you convey information to others. Working with LEP clients is essentially about effective

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### November 6

*Legal Aid Telephone Hotline Training*

Who: CARPLS

Time: 4:00 p.m. to 8:00 p.m.

### November 6

*Pro Bono Training on Representing Custodial Suspects at the Police Stations*

Who: First Defense

Time: 5:30 p.m. to 7:30 p.m.

### November 7

*Pro Bono Attorney Training for DCFS Expungement Appeal Hearings*

Who: The Family Defense Center

Time: Lunchtime (exact time TBD)

### December 5

*Fair Housing Act & Accommodations Training*

Who: Access Living

Time: 3:00 p.m. to 5:00 p.m.

*Additional details regarding each training can be found at [www.IllinoisProBono.org](http://www.IllinoisProBono.org).*

communication—a critical component of all attorney–client relationships.

Of course, bilingual and multilingual attorneys are a crucial resource for the growing number of LEP clients. However, even attorneys who speak English only can help meet the needs of LEP clients, as described in the Sidebar.

### Ways to Get Involved

Many legal aid, social service, faith-based, and cultural organizations are looking to collaborate with pro bono attorneys to address specific community needs. Pro bono opportunities may range from brief client calls to document translation to client representation. While attorneys with proficiency or fluency in other languages should certainly volunteer for such opportunities, attorneys who speak English only can also play distinct roles in serving LEP clients.

To help our legal system ensure fairness and justice to all, we as attorneys can assist

## TIPS FOR WORKING WITH LEP CLIENTS

Although cultural and linguistic barriers may seem daunting, here are seven practical steps you can take to alleviate these concerns and serve LEP clients effectively.

1. *Understand that language and culture are linked.* In addition to language, there may also be cultural differences between you and your client. For example, in some cultures looking someone directly in the eye may be considered rude. Ask questions when in doubt, make an effort to articulate your suggestions clearly, and be open and flexible in interacting with your client.

2. *Identify the Need, Number of Interpreters, and Right Language.* Many clients learn enough practical English to get by in daily life. However, this is not the same as being able to fully participate in a legal proceeding. Ask your client open-ended questions to help assess his or her level of fluency. Ask the client whether they would like or need an interpreter. If an interpreter is needed, put thought into which language(s) are appropriate. Formal Egyptian Arabic may not effectively translate for someone who speaks a Jordanian village dialect. On the flip side, many clients are multilingual and may be able to work with multiple types of interpreters. Someone whose native language is an indigenous Mexican dialect might be perfectly fluent in Spanish.

The best practice is to have separate interpreters for the client and the opposing party. Determine who will provide interpreters and how. Inquire about language access policies and procedures. Many organizations have contracts with agencies providing interpretation and translation. Ascertain the court's procedures for interpretation and translated documents.

3. *Plan practically.* Information is being relayed twice—from you to the interpreter and from the interpreter to your client. Allocate additional time for meetings and hearings. Confirm the interpreter before going to court. Plan for breaks every half hour, as interpreters need these breaks to maintain focus.

4. *Establish clear roles for the process.* Just like you would explain the process and purpose of a deposition to any client, do the same by explaining interpretation to a client and interpreter. Interpretation is a formal process involving multiple people with a shared purpose—to clearly convey information.

The interpreter's role is to accurately communicate all information without omissions or additions. He or she is a conduit. The interpreter is not there to paraphrase, assess the client's credibility, provide legal advice, or be an informal expert on the client's situation or culture. He or she is there to interpret everything that happens (not interpret selectively), ask clarifying questions, and possibly take notes. The interpreter should provide accuracy, confidentiality, and impartiality. Clarify whether the interpreter will use simultaneous interpretation (translating quietly as people are speaking) or consecutive interpretation (translating after someone has spoken).

5. *Identify and try to eliminate conflicts of interest.* Try to avoid interpreters with a financial, personal, familial, or other relationship to the parties or facts of the case. To the extent possible, choose a neutral, objective interpreter, even though this might be challenging in language groups with a small number of people. Avoid using family members as interpreters because there may be issues with bias and confidentiality. Never use children.

6. *Communicate conscientiously.* Use short phrases and long pauses. The interpreter needs to take in information, reformulate it, and accurately convey it in two directions. Avoid long, convoluted questions or statements. Go slowly when reading documents. Only one person should speak at a time. Don't interrupt the interpreter. It breaks the chain of thought. Keep voices raised. The interpreter needs to hear all parties clearly. In a meeting, have the interpreter sit immediately behind the English speaker and facing the client. Address the client directly. Look at the client when speaking to them. Frame questions directly to the client; for example, ask "what time did that happen" as opposed to "ask her what time that happened."

7. *Be patient.* Not every language has a single word for a legal term (e.g. jurisdiction). Particular legal concepts may not exist in other legal frameworks, cultures, or languages. These differences might take time to explain. Again, don't interrupt the interpreter—it interferes with communication.

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Pro bono programs serve individuals with limited English proficiency every day. Bilingual volunteers have unique skills to offer, but all attorneys can help. Visit [www.IllinoisProBono.org](http://www.IllinoisProBono.org) to search for volunteer opportunities. Contact the CBF Pro Bono Support Program (Jessica Bednarz at 312/554-4952 or [jbednarz@chicagobar.org](mailto:jbednarz@chicagobar.org)) with questions or for assistance finding an opportunity that is right for you.

LEP clients with a broad range of legal issues. As we find ways to successfully serve an increasingly diverse client base, we will provide crucial help to vulnerable clients, while also improving our own legal and communication skills. ■

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## A TOUGH ECONOMY IS FUEL FOR FRAUD.

**Greater financial pressure on employees** and companies has increased the likelihood of fraud in the workplace. Recent numbers are staggering: for companies both large and small, 5% to 7% of annual revenues are lost to internal fraud. That makes a strong case for fraud risk management.

Bring in Wipfli's fraud and forensics team to assess risk, uncover schemes and establish controls. We have deep knowledge and professional business credentials. Our digital forensics lab enables us to retrieve evidence in a secure environment equipped with the latest IT tools. We also provide expert litigation support.

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