



**JUDICIAL COUNCIL OF GUAM
REGULAR MEETING
THURSDAY, FEBRUARY 24, 2022 | 12:00 PM
GUAM JUDICIAL CENTER
AND VIA VIDEOCONFERENCE**

AGENDA

I. CALL TO ORDER

II. PROOF OF DUE NOTICE OF MEETING: February 17, 2022
February 22, 2022

III. DETERMINATION OF QUORUM

IV. READING AND DISPOSAL OF MINUTES: January 27, 2022 Regular Meeting

V. OLD BUSINESS

- A. Judiciary FY22 Remittances Pursuant to P.L. 36-54
- B. Update on the Judiciary's Response to COVID-19
- C. Update on Capital Improvement Projects

VI. NEW BUSINESS

- A. Executive Order No. 2022-01: Relative to Establishing a Law Enforcement Officer Pay Scale Within the Competitive Wage Act Plan
- B. JC Resolution Relative to Amending the Language Assistance Policy for Persons of Limited English Proficiency
- C. JC Resolution Relative to Commending the Judiciary of Guam, The District Court of Guam, and the Guam Bar Association for a Job Well Done in Celebrating Law Month 2021 and for its Selection for the American Bar Association 2021 Outstanding Law Day Activity Award for Best Public Program
- D. Notice of Next Meeting (March 17, 2022)

VII. COMMUNICATIONS

VIII. PUBLIC COMMENT

- A. Guam Bar Association – President's Report

IX. ADJOURNMENT

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CIVIL SERVICE COMMISSION

NOTICE OF MEETING

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IN PERSON & ZOOM MEETING at 9:00 a.m., Thursday, February 24, 2021, Bell Tower, 710 W. Marine Corps Drive, Anigua. For special accommodations, call Eric Miller/ADA Coordinator at 647-1855. The public can access a live stream this meeting on the CSC website at:

<https://us06web.zoom.us/j/86184678341?pwd=SWkyZ3RlZkRka1A3SExBNkpISUlnQT09>
Meeting ID: 861 8467 8341 | Passcode: 631839

AGENDA:

I. CALL TO ORDER

II. APPROVAL OF MINUTES: February 17, 2022.

III. NEW BUSINESS:

1. Motion Hearing
Christopher Santos vs. Department of Corrections; CSC Case
No.: 20-AA13T

IV. OLD BUSINESS:

1. Hearing on the Merits
Christopher Florig vs. Guam Fire Department; CSC Case
No.: 18-AA07T

V. GENERAL BUSINESS:

1. Bills and Laws affecting CSC: None.
2. Litigation: By Administrative Counsel: None.
3. Administrative Matters:
(A) Approval on Resolution to Amend Post Audit
Statute; 4 GCA; 4403 (d) and (e)
(B) Training: Civil Service Commission Board Members

VI. ADJOURNMENT.

/s/ Daniel D. Leon Guerrero, Executive Director
Paid for by the Civil Service Commission

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JUDICIAL COUNCIL OF GUAM

Suite 300 Guam Judicial Center
120 West O'Brien Drive
Hagåtña, Guam 96910-5174
Tel: (671) 475-3413 Fax: (671) 475-3140

NOTICE OF PUBLIC MEETING

The Judicial Council of Guam will conduct its monthly meeting on **Thursday, February 24, 2022, at 12 Noon in the Guam Judicial Center, 120 West O'Brien Drive, Hagåtña, by videoconference.** A monitor will be set up for any members of the public who would like to observe and offer comments.

The meeting will also be streamed live on the Judiciary of Guam YouTube channel: <https://www.youtube.com/channel/UCfnFCWwllp99fAeh9zi4Q4g/featured>

The following agenda is available on the Judiciary of Guam website: <http://www.guamsupremecourt.com/Judicial-Council/Judicial-Council-of-Guam.asp>

I. Call to Order

II. Proof of Due Notice of Meeting:

February 17 & 22, 2022

III. Determination of Quorum

IV. Reading and Disposal of Minutes:

January 27, 2022 Regular Meeting

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B. Update on the Judiciary's Response to COVID-19
C. Update on Capital Improvement Projects

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D. Notice of Next Meeting (March 17, 2022)

VII. Communications

VIII. Public Comment

A. Guam Bar Association – President's Report

IX. Adjournment

Any person(s) needing special accommodations, auxiliary aids or services, please contact the Administrator of the Courts at 671-475-3544, or Petrina M. Ula at 671-475-3413.

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CHIEF JUSTICE F. PHILIP CARBULLIDO
Chairman

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/s/ Daniel D. Leon Guerrero, Executive Director
Paid for by the Civil Service Commission



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March 1, 2022 at 10:00 AM
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Zoom meeting ID: 921 642 5619 Passcode: CLB542

Agenda

- I. Call to Order
- II. Roll Call
- III. New Business
 - a. February 3, 2022 resignation of Mr. Cecil "Buddy" Orsini as Executive Director of the Contractor's License Board. Proposed action to accept Mr. Orsini's resignation and accept Ms. Linda Ibanez as he temporary Acting Executive Director.
 - b. Authority of the Executive Director. Proposed action to rescind any "Findings and Decisions" issued by Mr. Orsini that has not been formally approved by the Board.
- IV. Announcements
 - a. Scheduled regular board meeting for March 9, 2022
- V. Adjournment

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JUDICIAL COUNCIL OF GUAM

Suite 300 Guam Judicial Center
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CHIEF JUSTICE F. PHILIP CARBULLIDO
Chairman



Joseph T. Duenas
CCU Chairman

GUAM POWER AUTHORITY

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John M. Benavente, P.E.
General Manager

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Pacific Daily News



JUDICIAL COUNCIL OF GUAM

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Tel: (671) 475-3413 Fax: (671) 475-3140

**JUDICIAL COUNCIL OF GUAM
REGULAR MEETING
THURSDAY, JANUARY 27, 2022
Justice Monessa G. Lujan Appellate Courtroom
Guam Judicial Center
And via Videoconference**

★★★★

Hon. F. Philip Carbullido
Chairman

Hon. Katherine A. Maraman
Member

Hon. Robert J. Torres
Member

Hon. Alberto C. Lamorena, III.
Member

Hon. Arthur R. Barcinas
Member

★★★★

Advisory Committee Members:

Hon. Vernon G. Perez

Hon. Maria T. Cenzone

Hon. Elyze M. Iriarte

Hon. Dana A. Gutierrez

Hon. Alberto E. Tolentino

Atty. Jacqueline T. Terlaje

Atty. Frederick J. Horecky

★★★★

Administrator of the Courts:
Kristina L. Baird

Judicial Council Secretary:
Petrina Ula

Judicial Council Asst. Secretary:
Shelterihna T. Alokoa

MINUTES

I. CALL TO ORDER

The Regular Meeting of the Judicial Council was called to order by the Chairman, Chief Justice F. Philip Carbullido, at the hour of 12:00 p.m.

ROLL CALL**:

Chief Justice F. Philip Carbullido (calling in from the Judiciary)
Justice Robert J. Torres (calling in from the Judiciary)
Justice Katherine A. Maraman (calling in from Sinajana)
Presiding Judge Alberto C. Lamorena III (calling in from off-island)
*Judge Arthur R. Barcinas (logged on after the meeting concluded)

Advisory Committee Members:
Judge Maria T. Cenzone
Judge Alberto E. Tolentino
Referee Linda L. Ingles
Frederick Horecky

Also, Present:
Ms. Kristina L. Baird, Administrator of the Courts (AOC)
Mr. Andrew Sergio Quenga, Deputy Administrator of the Courts
Mr. Daniel F. Mensching, Staff Attorney
Mr. Michael C. Bumagat, Staff Attorney
Ms. Dawn R. S. Blas, Judicial Educator
Ms. Danielle T. Rosete, Clerk of Court, Superior Court
Ms. Hannah G. Arroyo, Clerk of Court, Supreme Court
Ms. Maria Erica R. Eschbach, Staff Attorney, Supreme Court
Ms. Barbara Jean T. Perez, Human Resources Administrator
Mr. Joseph Leon Guerrero, Deputy Marshal of the Court
Ms. Rossanna Villagomez-Aguon, Chief Probation Officer
Ms. Ma. Dianne Ollet Gudmalin, FMD Administrator

Mr. Carl Dominguez, Procurement & Facilities Management Administrator
Ms. Marissa C. Antonio, Deputy Procurement & Facilities Management Administrator
Ms. Virginia W. Yasuhiro, Client Services and Family Counseling Division Administrator
Ms. Geraldine A. Cepeda, Compiler of Laws/Law Library Executive Director
Ms. Marcelene C. Santos, Public Guardian
Mr. Robert John S. Rabago, Management Information Systems Administrator
Ms. M. Grace Lapid Rosadino, Acting Courts Programs Administrator
Mr. Michael M. Kilayko, Special Projects Coordinator (PIO)
Ms. Alicia A. G. Limtiaco, Supreme Court of Guam Regulation Counsel
Ms. Crystal C. Apiag, Court Information System Analyst I, MIS Division
Ms. Jessica Perez-Jackson, Administrative Service Officer
Ms. Shelterihna T. Alokoa, Judicial Assistant, Judicial Council Assistant Secretary
Ms. Petrina M. Ula, Judicial Assistant, Judicial Council Executive Secretary
Public Access in the Atrium

****Note:** All individuals listed above participated via video conference as per social distancing directives.

II. PROOF OF DUE NOTICE OF MEETING

Due publication of the five-day Notices of Meeting of the Judicial Council, as required under the Open Government Law, were published in the Pacific Daily News. Acknowledgments are on file.

III. DETERMINATION OF QUORUM

Chief Justice Carbullido began the roll call. Chief Justice F. Philip Carbullido, Associate Justice Robert J. Torres, and Presiding Judge Alberto C. Lamorena III identified themselves and their location. This meeting determined a quorum with three (3) Judicial Council members present. Associate Justice Katherine A. Maraman joined the meeting at 12:09 p.m. *Judge Arthur R. Barcinas logged onto the virtual meeting after the short meeting concluded; he was late logging on due to an ongoing trial.

IV. READING AND DISPOSAL OF MINUTES: December 16, 2021 Regular Meeting

Justice Torres moved to approve the December 16, 2021 Regular Meeting minutes, subject to correction. Presiding Judge Lamorena seconded the motion. Chief Justice Carbullido called an oral vote. With no discussion, the three (3) Judicial Council members voted in favor; the minutes were approved, subject to correction.

V. OLD BUSINESS

A. Judiciary FY21 Remittances under PL 36-54

Ms. Gudmalin reported that the Judiciary's scheduled bi-weekly allotment of \$1,257,204 for FY22 have been consistently received in full and on time. She stated that from the \$32,687,295 appropriated to the Judiciary under PL 36-54, 35 % or \$11,314,836 has been received. Ms. Gudmalin added that the last allotment was received on January 26, 2022; the next distribution is scheduled for February 8, 2022.

B. Update on the Judiciary's Response to COVID-19

Administrator of the Courts (AOC) Ms. Kristina Baird reported that the Judiciary is facing the third surge of COVID-19 cases, with 38 employees testing positive since January 1, 2022. She added that the Judiciary contact tracers started tracing and monitoring 22 employees in the last week, most of whom are experiencing mild symptoms. In response to said surge in judicial employees, Ms. Baird stated, Judiciary management postponed the fifth cohort of the Leadership Development Academy and the Physical Fitness Qualification Test (PFQT) for Judiciary law enforcement employees.

Ms. Baird said the Judiciary's Response to COVID-19 focuses on three areas: the sanitization of facilities, support of virtual platforms, and continued operation of high-capacity courtrooms. She explained the Judiciary contracted with a sanitization company, which for FY22, will clean the facilities five (5) days per week and sanitize three (3) days per week. Ms. Baird stated the Facilities Staff augments cleaning and sanitization efforts through the workweek. She said virtual platforms are encouraged as the alternative to in-person proceedings. Ms. Baird noted that the three (3) high-capacity courtrooms: the San Ramon building, the Route 4 building, and Supreme Court, are fully operational and available for use for, mainly, criminal felony jury trials.

C. Update on Capital Improvement Projects

Ms. Baird (AOC) reported on three (3) ongoing Capital Improvement Projects (CIP): the 8th judge's courtroom, renovation of the third floor of the San Ramon Building, and the Guam Historic Courthouse Building.

Ms. Baird related that the construction work on the 8th judge's courtroom commenced on January 1, 2022. Ms. Baird said the contractor's work is completed in the evenings during the workweek and on weekends to minimize disruption to the courtroom proceedings. The 8th judge's courtroom is designed to be a modular courtroom, which allows for a change in the room's layout for different proceedings, Ms. Baird explained. She added the courtroom would accommodate sixteen (16) jurors and public viewing with six (6) feet of social distancing. Ms. Baird noted the timeline for completing the project is March 2022.

Ms. Baird explained that construction work commenced on the 3rd floor of the San Ramon building. She said the contractor was notified that work that includes loud noise, such as demolition, must be completed after 5:00 p.m. during the work week or on weekends. Ms. Baird noted the timeline for the construction portion of the project has been moved to the middle of February 2022. She reported that the 3rd floor, once completed, will house Regulation Counsel and the Finance Management Division; the cashier's window will not be moved.

Ms. Baird reported that the Judiciary is working with the contracted architect on the Guam Historic Courthouse Building designs. She added that the architect has completed the 'as is' designs and that the blueprint needed to put the job out for bid will be completed in March 2022. Ms. Baird stated the Judiciary met with the Guam Preservation Trust members to discuss additional funding sources for the Guam Historic Courthouse Building renovation.

Chief Justice Carbullido added that while the AOC and her team seek other funding sources, the fallback funding source for the Guam Historical Courthouse Building renovation will be a drawdown on the Bank of Guam loan facility (BOG). He added the Judiciary has until January 2023 to decide the drawdown amount and timeline. He stated that Judiciary management would make a presentation showing the Judiciary's ability to repay the BOG loan to the Council in an upcoming meeting. Chief Justice Carbullido explained that Ms. Gudmalin is preparing a pro forma financial statement as far as the ability of the Judiciary to undertake the BOG loan and will share it with the Council when she is satisfied with her projected revenues. He added they are waiting on the architect's estimates for the renovations' cost. Justice Torres noted the timing of Ms. Gudmalin's pro forma financial statements is critical in understanding the Judiciary's ability to repay the BOG loan is critical. Justice Torres asked about revenues to the JBF fund; Chief Justice Carbullido stated revenues are up from 2020.

VI. NEW BUSINESS

A. Notice of Next Meeting (February 17, 2022)

Chief Justice Carbullido announced the next Judicial Council regular meeting will be Thursday, February 17, 2022.

VII. COMMUNICATIONS

A. Presiding Judge Lamorena's Memorandum re: Judge Barcinas' Reappointment to the Judicial Council.

Chief Justice Carbullido explained Judge Barcinas was reappointed by Presiding Judge Lamorena to continue to serve as the 5th member of the Judicial Council through December 31, 2022.

VIII. PUBLIC COMMENT

A. Guam Bar Association Board (GBA) – President's Report

No one from the Guam Bar Association Board attended the Council meeting.

B. IFIK Employee's Association

The Council expressed their appreciation to the 2021 IFIK President, Ms. Jaylene San Nicolas, and board members: Ms. Jolena May San Agustin, Ms. Serena Hernandez, and Ms. Bonita Blas for their service to the Judiciary. Chief Justice Carbullido noted Mr. David Welle is the incoming President of the 2022 IFIK.

X. ADJOURNMENT

Justice Torres moved to adjourn. Presiding Judge Lamorena seconded the motion. The motion was unanimously adopted, and the meeting was adjourned at 12:19 p.m.

Respectfully submitted this 24th day of February 2022.



SHELTERIHNA T. ALOKOA
Assistant Secretary,
Judicial Council of Guam



PETRINA M. ULA.
Executive Secretary,
Judicial Council of Guam

The Minutes of the January 27, 2022 Regular Meeting as set out above were approved by the Judicial Council at the February 24, 2022 Regular meeting.



F. PHILIP CARBULLIDO
Chairman

Dated: 02/24/22



BEFORE THE 2022 JUDICIAL COUNCIL OF GUAM

RESOLUTION NO. JC22-001

**RELATIVE TO APPROVING THE FOURTH REVISED LANGUAGE ASSISTANCE POLICY
FOR PERSONS OF LIMITED ENGLISH PROFICIENCY**

WHEREAS, Title VI of the Civil Rights Act requires that persons of limited English proficiency have equal access to justice as their English-proficient counterparts; and

WHEREAS, the Judicial Council first adopted its Language Assistance Policy for Persons of Limited English Proficiency (the "Language Assistance Policy") in 2007 in Judicial Council Resolution JC No. 07-014; and

WHEREAS, the Language Assistance policy has been updated and amended in 2013 and 2016 to reflect the changing demographic and language needs of the patrons of the Judiciary and to add a component for assistance for the deaf or hard of hearing; and

WHEREAS, another review was conducted by Judiciary staff and further updates and amendments on the demographic and language needs are recommended in Sections III, V, and VI of the existing Language Assistance Policy approved by the Judicial Council under JC No. 17-003; and

WHEREAS, the recommended updates were reviewed by the Judicial Council.

NOW, THEREFORE, BE IT RESOLVED that the Judicial Council adopt the updated Language Assistance Policy which is attached.

DULY ADOPTED this 24th day of February 2022 at a noticed meeting of the Judicial Council of Guam.

A handwritten signature in black ink, appearing to read "F. Philip Carbullido", written over a horizontal line.

F. PHILIP CARBULLIDO, Chairman

Dated: 02/24/22

ATTEST:

A handwritten signature in black ink, appearing to read "Petrina M. Ula", written over a horizontal line.

Petrina M. Ula, Executive Secretary

Dated: 02/24/22

JC22-001 Exhibit A

Judiciary of Guam Fourth Revised Language Assistance Policy for Persons of Limited English Proficiency

I. DEFINITIONS

- A. Limited English Proficiency – A person with limited English proficiency (LEP) does not speak English as his or her primary language, and has a limited ability to read, write, speak, or understand English. Many LEP persons are in the process of learning English and may read, write, speak, and/or understand some English, but not proficiently. LEP status may be context specific. An individual may have sufficient English language skills to communicate basic information (such as name, address, etc.), but may not have sufficient skills to communicate detailed information in English (*e.g.*, medical information, eyewitness accounts, information elicited in an interrogation, etc.).
- B. Primary Source Language – A language of the speaker which is interpreted into a second language. An individual's native tongue or the language in which an individual most effectively communicates.
- C. Interpretation – The act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.
- D. Translation – The replacement of written text from one language (source language) into an equivalent written text in another language (target language).
- E. Bilingual – Refers to the ability to use two languages proficiently.
- F. Judiciary of Guam Interpreter Listing – A list of on-call interpreters maintained by the Clerks of Court at the Supreme and Superior Courts. These interpreters are remunerated for service.
- G. Bilingual Staff Interpreters – Judiciary of Guam employees with bilingual proficiency in source and target languages.
- H. LA Coordinator – Language Assistance Coordinator is appointed by the Chief Justice of Guam to oversee implementation and annual updates of the LEP plan.
- I. DHH – Deaf or Hard of Hearing. A person who is disabled because of a hearing, communication, or speech disorder, or has difficulty in speaking or comprehending the English language, is unable to fully understand the proceedings in which the person is required to participate and thus is unable to obtain due process of law.

II. POLICY STATEMENT

The Judicial Council of Guam ratified the first edition of the LEP Plan on August 30, 2007, and it was subsequently updated on March 21, 2013, and a third time on November 3, 2016. This fourth revision was approved on February 24, 2022 and includes updates in Section III. Background, Section V. Language Assistance Data for 2021, and Section VI Translation of vital documents.

This LEP/DHH Plan was developed to provide timely, meaningful, and equal access to programs, services, and/or information to persons who are limited English proficient (LEP) or Deaf and Hard of Hearing (DHH) in compliance with federal law.¹ The overarching goal is to ensure maximum communication between the Judiciary and all members of our community with whom the Judiciary interacts.

To the greatest extent practical, the Judiciary of Guam will strive to meet the needs of LEP/DHH persons by ensuring the highest quality of language assistance and services.

Judiciary employees will inform the public that language assistance services are available free of charge to LEP/DHH individuals. Signs are posted in the following public areas: Courts & Ministerial Division, Client Services and Family Counseling Division, Probation Services Division, Human Resources Division, Supreme Court Intake, and Northern Court Satellite. The Language Assistance (LA) Coordinator is tasked with monitoring the sufficiency of all signs to ensure maximum communication with the public.

All Judiciary of Guam personnel shall coordinate language assistance services for individuals who are LEP/DHH through the LA Coordinator, who is authorized to activate interpreters and/or translators for this purpose.

III. BACKGROUND

In an effort to promote the accuracy and integrity of judiciary proceedings and to preserve constitutional and fundamental principles of fairness and access to justice, the Judiciary of Guam is committed to continuing to provide language access services to LEP and DHH persons who come in contact with the Judiciary of Guam.

Language barriers can inhibit or prohibit individuals who are LEP/DHH from accessing and/or understanding important constitutional rights, working with counsel, complying with orders of the court or probationary obligations, and receiving meaningful access to programs, services, and information.

Based on the Bureau of Statistics and Plans population projections found in the 2020 Guam Statistical Yearbook, Guam's population is 159,836. Guam is the gateway to the United States from Asia and neighboring Pacific islands and is a "melting pot" of cultures with two official recognized languages for conducting business: English and native Chamorro. Although English is the primary language in Guam, other languages spoken in Guam

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.

include Chamorro, various Filipino languages (e.g., Tagalog, etc.), Korean, Japanese, Chinese, Chuukese, Kosraean, Pohnpeian, Yapese, Palauan, Vietnamese, and American Sign Language. Based on the 2010 – 2020 population projections by the Guam Census Bureau, all ethnic groups will have a 5% increase, and will continue at that rate into the next decade.

New data for 2011 – 2020 on languages spoken and its frequency are not yet available. However, according to the 2010 Census Guam Demographic Profile, 56% of Guam's population speaks a language other than English at home. Moreover, about 38% of these individuals speak other languages more frequently than English while 0.8% do not speak English. In terms of languages spoken at home, 21% speak a Filipino language, 10% speak a Pacific Island language (not including Chamorro), and 6% speak an Asian language.

Guam has a limited population base and is geographically isolated, located about 8 hours by air from the island state of Hawaii, and an additional 8 hours by air from Hawaii to the continental United States (West coast). Guam is located approximately 6,600 miles from San Diego, California. Therefore, interpreters and translators for certain languages may be unavailable or extremely limited on island. Compounding the geographic isolation is Guam's time zone. Guam falls under Chamorro Standard Time (ChST), which is typically a day ahead and the opposite time of day from the continental United States.

Whether a person is a resident of Guam, or a temporary visitor, the opportunity to come in contact with the courts for a criminal or civil matter is evident. Many of our residents, U.S. citizens and permanent residents receive services from the Judiciary. Some clients provide their own interpreters as an alternative to the court's use of interpreters or bilingual employees. LEP/DHH persons occasionally rely on their children to interpret for them, and on occasion, may call upon neighbors or strangers to act as interpreters or translators. However, an untrained "interpreter" may be unable to understand the concepts or legal terminology he or she is being asked to interpret or translate. Thus, we must minimize these instances and rely on the trained interpreters used by the Judiciary of Guam, as well as provide training to judges and all employees on the proper use of interpreters and bilingual staff.

According to the American Bar Association (ABA) Standards for Language Access in Courts,² "training is also necessary to dispel the myth and understanding that bilingualism is sufficient qualification to interpret: the trained judge or court personnel understands that not all bilingual persons have the necessary interpreting skills to work in courts and that the skills needed to interpret are extensive. This training should also provide guidance on the steps necessary to appoint a qualified interpreter and should describe the differences between interpreters and bilingual staff and the appropriate roles for each."

² American Bar Association Standards for Language Access in Courts, Standing Committee on Legal Aid and Indigent Defendants, February 2012.

Prospectively, the Judiciary of Guam will explore recruitment opportunities of bilingual staff (e.g., Bonafide Qualifications) to maximize communication among our employees and the public, specifically for non-courtroom related settings (e.g., public service counters and information). The Language Assistance Coordinator shall develop protocols and provide training to bilingual employees, in addition to a court-wide presentation to inform all employees of the availability and appropriateness of when bilingual employees can be contacted.

On December 27, 2012, the Guam Judicial Council approved the Court Interpreter Registry Program (CIRP) to promote the accuracy and integrity of judiciary proceedings, and to preserve fundamental principles of fairness and access to justice. The CIRP governs the assignment and use of interpreters for indigent criminal defense work, courtroom pre-trial and post judgment proceedings involving criminal indigent defendants, for juvenile delinquency defense, and juvenile proceedings when parental rights are implicated. CIRP interpreters are compensated for services based on assignments coordinated through the LA Coordinator.

The CIRP is distinguished from bilingual assistance to LEP/DHH persons not involved in a criminal case. In these instances, language assistance is provided by bilingual court employees who are fluent in the source language of the LEP/DHH person, and there is no additional compensation for such services by a bilingual court employee. Such bilingual assistance is informal and limited to providing basic information related to the particular services of a Division wherein the employee is assigned, in order to better assist an LEP/DHH person to receive access to court services, procedures, and documents.

Federal law prohibits national origin discrimination and requires federally assisted law enforcement entities such as the Judiciary of Guam to take reasonable steps to provide meaningful access to programs, services and information to individuals who are LEP/DHH. The Judiciary of Guam's Language Assistance Policy is consistent with Title VI of the Civil Rights Act of 1964, which states:

“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.”

After a U.S. Supreme Court ruling, Congress redefined the Title VI Act in 1997 that holds responsible the entire organization who is a recipient of federal funds if a discrimination complaint is filed, and not just the specific program under which the complaint was filed.

Title VI of the Civil Rights Act of 1964 prohibits:

- A. Providing different services to individuals as it relates to race, color, and national origin.
- B. Denying the opportunity to participate as a member of a planning or advisory body, ensuring adequate representation.

- C. Selecting the location of a facility with the purpose or effect of excluding individuals to avoid excluding individuals based on race, color, or national origin.

Mr. Thomas E. Perez, Assistant Attorney General with the U.S. Department of Justice Civil Rights Division issued a letter on August 16, 2010, to provide guidance to state court systems. "Through this letter, DOJ intends to provide greater clarity regarding the requirements that courts receiving federal financial assistance provide meaningful access for LEP individuals... The federal requirement to provide language assistance to LEP individuals applies notwithstanding conflicting state or local laws or court rules. DOJ, however, views access to all court proceedings as critical. The DOJ Guidance refers to the importance of meaningful access to courts and courtrooms, without distinguishing among civil, criminal, or administrative matters. *See* DOJ Guidance, 67 Fed. Reg. at 41,462. Every effort should be taken to ensure competent interpretation for LEP individuals during *all* hearings, trials, and motions, *id.* at 41,471 (emphasis added), including administrative court proceedings. *Id.* at 41,459, n.5."

"Courts should also provide language assistance to non-party LEP/DHH individuals whose presence or participation in a court matter is necessary or appropriate, including parents and guardians of minor victims of crime or where the parental rights of individuals are implicated such as in juvenile dependency matters, and truancy cases. Proceedings handled by officials such as magistrates, masters, commissioners, hearing officers, arbitrators, mediators, and other decision-makers should also include professional interpreter coverage. DOJ expects that meaningful access will be provided to LEP/DDHH persons in all court and court-annexed proceedings, whether civil, criminal, or administrative including those presided over by non-judges."

"...DOJ Guidance makes clear that court proceedings are among the most important activities conducted by recipients of federal funds, and emphasizes the need to provide interpretation free of cost... DOJ expects that, when meaningful access requires interpretation, courts will provide interpreters at no cost to the persons involved. The meaningful access requirement extends to court functions that are conducted outside the courtroom as well. Examples of such court-managed offices, operations, and programs can include information counters; intake or filing offices; cashiers; records rooms; sheriff's offices; probation and parole offices; alternative dispute resolution programs; pro se clinics; criminal diversion programs; anger management classes; detention facilities; and similar offices, operations, and programs... DOJ expects courts to provide meaningful access for LEP/DHH persons to such court operated or managed points of public contact in the judicial process, whether the contact at issue occurs inside or outside the courtroom."

IV. FOUR-FACTOR ANALYSIS

The Office of Civil Rights (OCR) recommended a four-factor analysis be conducted to determine reasonable steps in implementing our LEP/DHH policy. These factors are:

1. The number or proportion of LEP/DHH persons served or encountered in the eligible service population.
2. The frequency with which LEP/DHH persons come in contact with the program.
3. The nature and importance of the program, activity, or service provided by the program. (Rank activities or services based on level of importance; reasonableness.)
4. The resources available to the recipient.

An analysis was conducted on interpreter services required for court and non-court events in the Superior Court of Guam during calendar year 2021. A summary is listed on the succeeding pages.

V. LANGUAGE ASSISTANCE DATA – CALENDAR YEAR 2021

Data provided by the Language Assistance Program is illustrated below. Language services provided have been disaggregated to services provided for court events and non-court events. Court events are comprised of official court proceedings while non-court events are those that occur outside of official court proceedings. During the height of the COVID-19 pandemic, all services were still being provided remotely through zoom and telephonic events. Examples of non-court events include attorney/client appointments, assessments, intake, and treatment/therapy services or classes and other interviews not associated with court proceedings. The Chuukese language was the most requested at 80%; followed by Tagalog at 6%; Pohnpeian at 5%; and Yapese, Korean and Chinese at 2%.

2021 Data on Court Language Services Provided				
Language	Court Events	Non-court Events	Total	Frequency
Chuukese	4,108	898	5006	79%
Tagalog	308	99	407	6.5%
Pohnpeian	244	49	293	4.7%
Korean	108	11	119	1.9%
Yapese	77	17	94	1.5%
Chinese	55	33	88	1.4%
Palauan	64	8	72	1.14%
Kosraean	35	10	45	0.71%
Japanese	36	5	41	0.70%
Marshallese	22	11	33	0.5%
American Sign Language	28	2	30	0.48%
Vietnamese	15	6	21	0.33%
Chamorro	20	0	20	0.32%

Russian	7	9	16	0.25%
Satawalese	7	3	10	0.16%
Spanish	2	0	2	0.03%
Grand Total	5,136	1,161	6,297	100%

VI. TRANSLATION OF VITAL DOCUMENTS

Based on an increase of interpreter services, vital documents that concern rights and responsibilities of a person must be translated in order to meet Office of Civil Rights' (OCR) Safe Harbor Provision, which qualifies that if 5% or 1,000 (whichever is less) of the service population is LEP/DHH, vital documents must be translated.

Statistics reveal that the Chuukese language was still the most requested language during 2021 at 79%. Therefore, vital documents need to be translated in this language which meets the Safe Harbor Provision (5% threshold). The LA Coordinator is responsible for working on programs and projects which ensure that important documents are translated in the various source languages, and that staff and judges receive repetitive training to maximize services to LEP/DHH persons. The LA Coordinator will work on ensuring vital documents are translated and training provided to judicial officers and staff.

Since 2010, the Judiciary of Guam began translating vital documents into the Chuukese language. The following documents have been translated and are being used in courtroom and non-courtroom events.

- DWI Misdemeanor Advisement of Rights, Waiver, and Plea Agreement
- Alcoholism Quiz (utilized by Probation Services Division)
- Alcohol Education Program (curriculum facilitated by Probation Services Division)
- Order of Conditional Release form in Criminal Cases
- Assertion or Waiver of Speedy Trial form in Criminal Cases
- Juvenile Parent Surveys
- Substance Abuse Testing Agreements
- DWITC Participant surveys, assessments, tests
- LEP written statements
- Complaint Against an Attorney form
- Highway Safety Brochures
- COVID-19 Public Service Notice

The Judiciary of Guam receives local appropriations to pay for interpreter services for defendants who are indigent, and counsel is appointed as required under the Sixth Amendment.

Services requested outside of a court appointed case will be provided in compliance with Title VI of the Civil Rights Act of 1964. The LA Coordinator is responsible for developing programs that enhance services to LEP/DHH persons in non-6th Amendment cases, and which expand services in all areas in which LEP/DHH persons come in contact with the Judiciary of Guam so as to meet the Four Factor analysis and criteria on an annual basis.

VII. PROCEDURES

The following procedures are established to guide personnel in providing services to LEP/DHH persons:

A. Determining the Need for an Interpreter in the Courtroom

First, this can be determined at an early stage in a criminal proceeding, usually based on inquiry from either the Magistrate or Arraignment Judge. Additionally, in a non-criminal proceeding the LEP/DHH person can make this known to the Intake Unit of Courts & Ministerial Division, or to the judge upon the first hearing on their case.

Second, if the defendant in a criminal proceeding understands some basic English and is arraigned pursuant to a constitutionally based plea, then the second stage to capture whether interpretation is necessary is at pre-trial proceedings where the defense lawyer can request the assistance of an interpreter from the Judge. In a non-criminal proceeding, the assigned judge will determine whether interpreter services are necessary for the proceedings.

Third, the Courts and Ministerial Division staff may utilize the Judiciary's Case Management System (CMS) to view the case history to determine if an interpreter has been provided for the individual in previous court hearings.

Fourth, stakeholders should notify the court of an LEP/DHH individual's need for an interpreter for an upcoming court hearing, such as probation, prosecution, defense attorney, correctional personnel, youth detention personnel, social workers, and treatment providers or therapists.

B. Identification of persons who are LEP in need of language assistance

To the greatest extent possible, employees should attempt to ascertain what language an LEP individual is speaking in order to provide adequate services, or whether a person is DHH. If you are unsure about the language being spoken, please contact the Language Assistance Coordinator. Your supervisor or division head can provide guidance to ensure language assistance services are provided as quickly as possible.

During an emergency, court employees who are unable to determine the language being spoken by an LEP/DHH person should refer customers, clients, and/or phone calls to the LA Coordinator. If it is a phone call, court staff shall remain on the line until their supervisor or division head answers the call. The LA Coordinator is responsible for assisting court staff to secure an interpreter in the shortest amount of time. If an interpreter is not on court grounds, all attempts will be made to contact an interpreter via telephone in order to effectively respond to the emergency situation. Bilingual court staff can also be contacted to assist.

C. Notice

Signs will be posted at various court locations, such as the Intake Section of Courts and Ministerial Division, Client Services and Family Counseling Division, Probation Services Division, and Marshals Division to inform potential LEP/DHH persons that language assistance services can be made available in various languages. Posted signs should detail information such as contact number for LA Coordinator, points of contact in the Clerks of Court offices and alternates, telephone number, office number, website information, and how to acquire services, and should be translated in various languages.

D. Staff Training

The LA Coordinator may work with the LEP Coordinators and the Human Resources Division to provide training to key staff on the LEP Plan's Policies and Procedures, how to properly identify LEP/DHH persons, differentiate various languages being spoken, understand cultural differences and issues, and deliver services to LEP/DHH persons. Training will continue periodically as staffs are rotated, or as new employees are hired. Training of staff will be documented by the use of sign in sheets (name, title, division, date and signature), maintained by the LA Coordinator with copies to the Human Resources Division (employees' personnel jackets), and Court Programs Administrator (for grant files).

E. Court Interpreter Qualifications

Court interpreters are qualified based on registration as a Court Registered Interpreter. To become a registered interpreter one must apply, be trained in basic courtroom interpreting and general interpreting skills and knowledge, and successfully pass an examination to test on general knowledge. Additionally, registered interpreters may be required to submit to an oral examination at the request of the LA Coordinator and must keep current in their skills by attending continuing education training. All registered interpreters are held to the Guam Interpreter Code of Conduct adopted by the Guam Supreme Court.

VIII. COMPLIANCE MONITORING AND UPDATING OF POLICY

The LA Coordinator will review and update this plan biennially and make recommendations for improvements based on the review. The evaluation should include problem areas or gaps in services, and a corrective action plan to address and resolve those problem areas. Evaluation criteria may include, among other data:

- Assessing the number of LEP persons requesting court interpreter services from the Judiciary of Guam
- Assessing current language needs to determine if additional services and/or translated materials should be provided (e.g., court forms, informational brochures)
- Assessing the knowledge court employees possess of LEP policies and how to provide language assistance services to LEP persons

The Judicial Council of Guam is responsible for approving the Policy of this LEP Plan. The Administrator of the Courts (AOC) is responsible for implementing the Plan and ensuring updates occur. The Language Assistance Coordinator is responsible for drafting biennial updates to the plan, analyzing data and trends, ensuring vital documents, brochures, and signs are translated, mitigating problems, and adjusting procedures as needed in consultation with the AOC, and training personnel on procedures. The AOC may approve any non-substantive data and statistical updates to the Plan, which updates shall be immediately reported to the Judicial Council. However, substantive updates or amendments shall be approved by the Judicial Council. Any revisions or updates to this plan will be posted on the Judiciary of Guam's website at www.guamcourts.org

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BEFORE THE 2022 JUDICIAL COUNCIL OF GUAM

RESOLUTION NO. 22-002

RELATIVE TO COMMENDING THE JUDICIARY OF GUAM, THE DISTRICT COURT OF GUAM,
AND THE GUAM BAR ASSOCIATION FOR A JOB WELL DONE IN CELEBRATING LAW MONTH 2021
AND FOR ITS SELECTION FOR THE AMERICAN BAR ASSOCIATION 2021 OUTSTANDING LAW DAY ACTIVITY
AWARD FOR BEST PUBLIC PROGRAM

WHEREAS, the Judiciary of Guam, the District Court of Guam, and the Guam Bar Association co-hosted a series of events to celebrate Law Day and Law Month;

WHEREAS, despite the continued pandemic, the Guam Law Week committee, made up of representatives from the Judiciary of Guam, the District Court of Guam and the Guam Bar Association, planned and hosted numerous events to promote and educate the public about the American Bar Association's 2021 Law Day theme, "Advancing the Rule of Law Now," reminding all of us that we the people share the responsibility to promote the rule of law, defend liberty, and pursue justice. Some significant events held were:

- Law Month kicked off with a virtual proclamation and resolution presentation with Governor Lourdes Leon Guerrero and Lt. Governor Joshua Tenorio declaring May 1, 2021 as Law Day and Law Month from April 24, 2021 through June 12, 2021.
- A Jump for Justice physical fitness event was held on April 26, 2021 at the Department of Youth Affairs. Judicial Officers and Guam Bar attorneys joined the fitness event with our youth involved in the juvenile justice system.
- Chief Justice F. Philip Carbullido presented his Annual State of the Judiciary Address at the Guam Congress Building on April 30, 2021. The address was broadcast island wide on the Guam Legislature's television channel. During his address, the Chief Justice announced the winner of the prestigious Hustisia Award: Retired Magistrate Judge Joaquin V.E. Manibusan, Jr.
- On May 7, 2021, the Supreme Court of Guam held its second virtual appellate argument using videoconference technology. The event was livestreamed on the Judiciary of Guam's YouTube channel, enabling all members of the public to observe the proceeding in real time.
- The annual Haggan Games was celebrated on May 8 and for the first time the committee partnered with the Guam Special Olympics organization. The event featured judicial officers, attorneys, and law enforcement personnel, partnering with Special Olympians to perform physical fitness exercises and activities.
- Education has long been a key component of Guam's Law Month program. Leading up to Law Day, a local newspaper, the Pacific Daily News, published articles that publicized events, as well as opinion-editorial pieces, describing the continued relevance of the 2021 Law Day theme.
- The traditional art contests for elementary school students from the island's public, private, and homeschools included a coloring contest for Kinder to 2nd grade, and an art/poster contest for 3rd to 5th grade. The middle school essay contest asked students to discuss historical or current events illustrating the rule of law, while high school students were asked to explain the role of the courts in ensuring the rule of law is enforced.
- Although the most popular Law Week event – fairy tale mock trial plays – could not be held in person, two public schools performed virtual mock trials. Students participated via videoconference and the performances were livestreamed on the Judiciary's YouTube channel.
- Guam's Law Month events wrapped up on June 5, 2021, with the closing ceremony for the "Secure the Blessings of Liberty by Planting" event. The event allowed our island's students to participate in a planting contest to grow tomato seedlings and care for them; and

WHEREAS, the American Bar Association Awards Committee selected the Judiciary of Guam, District Court of Guam, and the Guam Bar Association as the recipients of the 2021 Outstanding Activity Award winner for Best Public Program; and

WHEREAS, over the past 14 years, the Law Week Committee has received the outstanding Law Day Activity Award for Best Public Program from the American Bar Association; and

WHEREAS, the Law Week Committee has received 9 Outstanding Law Day Awards from the American Bar Association; and

WHEREAS, the Law Week Committee's accomplishments are numerous, significant and worthy of recognition and commendation.

NOW, THEREFORE, the Judicial Council, congratulates and commends the Law Week Committee for its accomplishments in preserving and strengthening the rule of law.

DULY ADOPTED this 24th day of February 2022 at a noticed meeting of the Judicial Council of Guam.

F. PHILIP CARBULLIDO
Chief Justice of Guam &
Chairman, Judicial Council of Guam

ROBERT J. TORRES
Member
Justice, Supreme Court of Guam

ALBERTO C. LAMORENA III
Member
Presiding Judge, Superior Court of Guam

KATHERINE A. MARAMAN
Member
Justice, Supreme Court of Guam

ARTHUR R. BARCINAS
Member
Judge, Superior Court of Guam