



Language Access Landscape

SETTING THE SCENE

As of 2023, about 10% of Massachusetts residents over age five (670,000) are limited English proficient (LEP).³ The Massachusetts Trial Court's Office of Language Access (OLA) generally has over 60 languages available for interpretation on its list, indicating the wide variety of languages spoken across the Commonwealth.⁴ Additionally, an estimated 20% of Massachusetts residents (1.4 million) are Deaf or hard of hearing (D/HH).⁵ Via the Fifth, Sixth, and Fourteenth Amendments, the U.S. Constitution guarantees LEP and D/HH individuals equal access to the court system, which includes state courts, regardless of their primary language. This is further stipulated in Title VI of the Civil Rights Act of 1964. The Massachusetts court system is also beholden to the Standards and Procedures of the Office of Language Access of 2009 and 2021, which strengthen LEP and D/HH individuals' rights to language access services.⁶

While the Massachusetts court system is obligated to provide language access services to LEP and D/HH court users, the availability and quality of these services vary from court to court. Massachusetts' score reflects this on the National Center for Access to Justice's (NACJ) Justice Index. Although Massachusetts is ranked highly when compared to other states, its overall score is substandard: only 67.9 out of 100, or a D letter grade.⁷ Without access to accurate translation and interpretation, LEP and D/HH individuals face greater difficulties when interacting with the court system, compared with their English-speaking and hearing peers. Thus, the Commonwealth has considerable room to grow with regard to increasing access to language services for all its residents.

Across the country, LEP and D/HH litigants continue to face significant hurdles to gaining equal footing in court proceedings compared to their English-speaking and hearing counterparts. For example, after an LEP defendant was denied an interpreter during her trial, the Georgia Supreme Court vacated her 10-year prison sentence. The Court found that the lower court's sentence violated the Fifth and Fourteenth Amendments of the U.S. Constitution, as well as the Sixth Amendment's rights of criminal defendants to 1) confront witnesses, 2) be present at their trial, and 3) receive effective assistance of counsel. The Court reasoned that failure to provide the defendant an interpreter strained her ability to understand the testimony for and against her, know her option to plead guilty, and communicate with her counsel effectively.⁸

In this landscape review, we examine the history of language access efforts nationwide, discuss the current status of language access at the state level, and outline best practices that Massachusetts courts can adopt to enhance their language access services further.