

REPRESENTING CLIENTS ACROSS CULTURAL AND LANGUAGE BARRIERS

How to best represent clients who speak a different language other than yours



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Culture

“Culture is like the air we breathe – it is largely invisible and yet we are dependent on it for our very being. Culture is the logic by which we give order to the world.”

Raymond Carroll, Cultural Misunderstandings: The French-American Experience 2 (1988)

People With Limited English Proficiency ("LEP")

CALIFORNIA

Total population:
35,131,429

Total LEP:
6,799,270

Total LEP Percent:
19.35%

Spanish: **66%**

Chinese: **9%**

Korean: **3%**

Vietnamese: **4.5%**

COUNTIES

LA County

25% LEP

Orange County

20% LEP

Source: 2015 American Community Survey by US Census

Rule of Professional Conduct 7.1

Rule 7.1 Communications Concerning a Lawyer's Services
(Rule Approved by the Supreme Court, Effective November 1, 2018)

(a) A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the communication considered as a whole not materially misleading.

Rule of Professional Conduct 7.1

COMMENT

[5] This rule prohibits a lawyer from making a communication that states or implies that the lawyer is able to provide legal services in a language other than English unless the lawyer can actually provide legal services in that language or the communication also states in the language of the communication the employment title of the person* who speaks such language.

California Civil Code § 1632

(b) Any person engaged in a trade or business who negotiates primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, orally or in writing, in the course of entering into any of the following, shall deliver to the other party to the contract or agreement and prior to the execution thereof, a translation of the contract or agreement in the language in which the contract or agreement was negotiated, that includes a translation of every term and condition in that contract or agreement:

California Civil Code § 1632

(b)(6) A contract or agreement, containing a statement of fees or charges, entered into for the purpose of obtaining legal services, when the person who is engaged in business is currently licensed to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code

California Civil Code § 1632

(h)(1) This section does not apply to any person engaged in a trade or business who negotiates primarily in a language other than English, as described by subdivision (b), if the party with whom he or she is negotiating is a *buyer of* goods or *services*, or receives a loan or extension of credit, or enters an agreement obligating himself or herself as a tenant, lessee, or sublessee, or similarly obligates himself or herself by contract or lease, and *the party negotiates the terms of the contract, lease, or other obligation through his or her own interpreter.*"

California Civil Code § 1632

(h)(1) *Continued:*

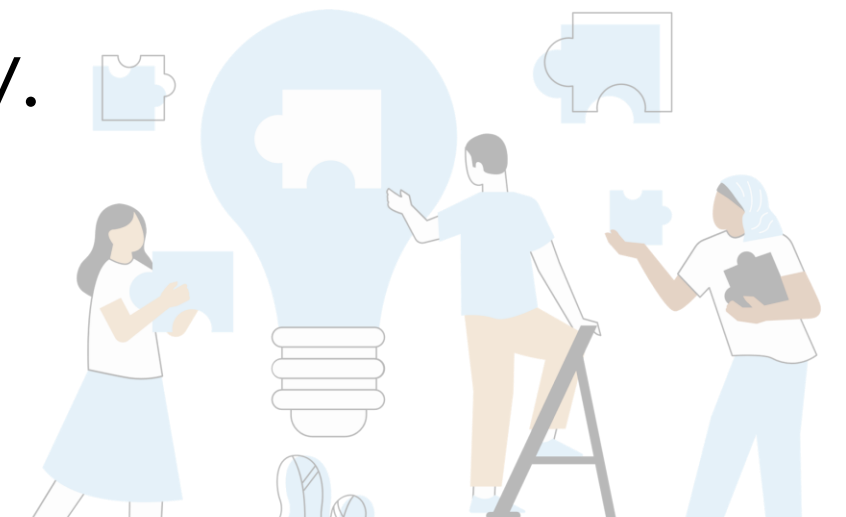
As used in this subdivision, “the party’s own interpreter” means a person who is not a minor and who is able to speak fluently and read with full understanding both the English language and any of the languages specified in subdivision (b) in which the contract, lease, or other obligation was negotiated, and who is not employed by, or whose service is not made available through, the person engaged in the trade or business.

Cultural Competence

Cultural competency refers to cognitive, emotional, and behavioral skills that lead to appropriate and effective communication with people of other culture.

Cultural competency is the ability to accurately understand and adapt behavior to cultural difference and commonality.

Milton Bennett, Becoming Interculturally Competent



Communication With Clients

RULES OF PROFESSIONAL CONDUCT 1.4

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which disclosure or the client's informed consent* is required by these rules or the State Bar Act;
 - (2) reasonably* consult with the client about the means by which to accomplish the client's objectives in the representation;
 - (3) keep the client reasonably* informed about significant developments relating to the representation, including promptly complying with reasonable* requests for information and copies of significant documents when necessary to keep the client so informed; and
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Communication With Clients

RULES OF PROFESSIONAL CONDUCT 1.4

(4) advise the client about any relevant limitation on the lawyer's conduct when the lawyer knows* that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) advise the client about any relevant limitation on the lawyer's conduct when the lawyer knows* that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

Communication With Clients

RULES OF PROFESSIONAL CONDUCT 1.4

(c) A lawyer may delay transmission of information to a client if the lawyer reasonably believes* that the client would be likely to react in a way that may cause imminent harm to the client or others.

(d) A lawyer's obligation under this rule to provide information and documents is subject to any applicable protective order, non-disclosure agreement, or limitation under statutory or decisional law

"It Depends"

Civility
Professionalism
Legal needs
Handshake
Eye contact



Client Interview



1. Be curious and candid
2. Build community network
3. Simplify language
4. Don't be afraid to bring in translators and translator services
5. Build diverse and inclusive teams



THANK YOU

