

# Machine Translation: Considerations and Cautions for Courts

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*State Justice Institute*

**NCSC**

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## Overview

This resource is designed to offer courts considerations and guidance when deciding if and how to incorporate machine translation into court workflows and services. Machine translation has great potential, but courts must think carefully about how to use it. As of the date of this resource, machine translation has not developed to the point where it can be relied on to convey complex information, legal concepts, or to relay information that could impact people's ability to understand and exercise their legal rights in any context. Given this, courts should never use machine translation for court events, to convey legal or procedural information or to carry out complex, extended interactions. However, courts may be able to use machine translation for limited out-of-court interactions or to create drafts of documents to be reviewed by professional translators. Courts should also regularly evaluate use of machine translation technologies as part of their machine translation policies to understand the limitations and opportunities presented by particular technologies in use by the court as well as whether particular uses of machine translation remain appropriate.

## What is Machine Translation?

In this resource, we use the term “machine translation” to refer to situations where computer software, including artificial intelligence, translates content from one language to another **without human involvement**. Here, machine translation includes translation done by popular AI applications such as ChatGPT or Gemini, or by neural machine translation (NMT) systems such as Google Translate, Bing, Microsoft Translator, DeepL, Reverso, Systran Translate, and Amazon Translate.<sup>1</sup>

## Challenges and Limitations Related to the Use of Machine Translation

Despite the appearance of efficiency that machine translation seems to offer, these applications and tools still have limitations that courts must consider when determining how and if to incorporate their use.

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<sup>1</sup> For more about models and types of machine translation, as well as strengths and weaknesses of these models, *see*, Palanichamy Naveen, et. al., Overview and challenges of machine translation for contextually appropriate translations, 27 *iScience* 10 (18 October 2024), *available at* <https://www.sciencedirect.com/science/article/pii/S2589004224021035> (last visited May 8, 2025) (hereinafter Naveen). Permalink at <https://perma.cc/5ATH-B9M3>.

## Accuracy

Although machine translation seems to offer a quick and low-cost solution to delivering content to users in multiple languages, machine translation in the legal context can be unreliable and inaccurate to the point of creating serious and dangerous misunderstandings.<sup>2</sup> Because machine translation, and particularly its use in the legal context, is relatively new territory, we do not have a lot of data about reliability in legal translation, although the few studies about complex translation and anecdotal evidence suggests that machine translation is not reliable in the legal context.<sup>3</sup>

A recent study of ChatGPT translation of legal documents into Arabic found problems with AI generated translation, including the lack of use of precise legal terminology and difficulty rendering complex, multi-clause sentences, leading to ambiguities about legal responsibilities and consequences.<sup>4</sup> Another study of Google translated medical discharge instructions (which, like legal documents, contain specialized terminology) suggested concerns about accuracy. In this study, Spanish had the highest accuracy rate (94%), followed by Tagalog (90%), Korean (83%), Chinese (82%), Farsi (68%), and Armenian (55%).<sup>5</sup> Although the high accuracy rates of some languages may look appealing, when it comes to critical information about medical or legal needs, even a six percent inaccuracy rate can lead to dangerous, serious consequences.

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<sup>2</sup> For some examples of how AI and machine translation errors led to legal consequences, *see*, Sofia Quaglia, Death by Machine Translation, *Slate* (September 21, 2022), *available at* <https://slate.com/technology/2022/09/machine-translation-accuracy-government-danger.html> (last visited May 8, 2025). Permalink at <https://perma.cc/6RD2-3TY3>; Johana Bhuiyan, Lost in AI translation: growing reliance on language apps jeopardizes some asylum applications, *The Guardian* (September 7, 2023) *available at* <https://www.theguardian.com/us-news/2023/sep/07/asylum-seekers-ai-translation-apps> (last visited May, 2025). Permalink at <https://perma.cc/84NW-EZVG>.

<sup>3</sup> For more about the pros and cons of using machine translation in the legal context, *see*, Ann Marie Boulanger, The Pros and Cons of Machine Translation and AI in Legal Translation, McGill School of Continuing Studies (Sept. 19, 2024), *available at* <https://www.mcgill.ca/continuingstudies/article/pros-and-cons-machine-translation-and-ai-legal-translation> (last visited May 8, 2025). Permalink at <https://perma.cc/2PAK-GNCF>.

<sup>4</sup> Abdel Rahman Mitib Altakhaineh, et.al., A Comparative Study of Accuracy in Human vs. AI Translation of Legal Documents into Arabic, 14 *International Journal of Language and Law* (2025) at 63-80, *available at* <https://www.languageandlaw.eu/jll/article/view/190/100> (last visited May 8, 2025). Permalink at <https://perma.cc/7VCH-LUAD>.

<sup>5</sup> Breena R. Taira, et. al., A Pragmatic Assessment of Google Translate for Emergency Department Instructions, *Journal of General Internal Medicine* (November 2021) *available at* <https://pubmed.ncbi.nlm.nih.gov/33674922/> (last visited May 8, 2025). Permalink at <https://perma.cc/2YNL-9F4A>.

Critical information could be included in that six percent, which if inaccurate and relied upon could have serious consequences. For example, if the date of a hearing is incorrectly translated, a person could miss their hearing date and be subject to arrest or lose their case by default. If the terms of a settlement are mistranslated, a person could be in noncompliance due to incorrect information.

These concerns about accuracy reflect the way AI platforms are trained and developed. Most commercially available AI platforms, including ChatGPT, and translation applications, such as Google Translate and DeepL, are trained based on existing web content. Because the majority of web content is in English, these platforms have limited ability to interact with content that is not in English and are biased toward English content and language structure.<sup>6</sup> These applications typically perform better in languages such as English and Spanish that appear with regularity on the internet.<sup>7</sup> In languages that appear less frequently, AI applications like ChatGPT have been found to invent words or use words from other languages, making content incoherent.<sup>8</sup> Machine translation tools may also struggle with regional forms of language or slang.<sup>9</sup>

Platforms can also ignore critical context when translating and reflect social biases, distorting meaning. Examples include defaulting to the pronoun “he” in translations of content from languages such as Spanish, where a pronoun is not used but understood from context, or making assumptions about gender based on social stereotypes in translations from languages like Hungarian or Turkish where the language uses only one, non-gendered third-person

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<sup>6</sup> For more information about the internet’s most-used languages, *see*, Russell Brandom, What Languages Dominate the Internet, *Rest of World* (June 7, 2023) available at <https://restofworld.org/2023/internet-most-used-languages/> (last visited May 8, 2025). Permalink at <https://perma.cc/JD7X-T48D>.

<sup>7</sup> *See e.g.*, Paresh Dave, ChatGPT Is Cutting Non-English Languages Out of the AI Revolution. *Wired* (May 31, 2023) available at <https://www.wired.com/story/chatgpt-non-english-languages-ai-revolution/> (last visited May 8, 2025). Permalink at <https://perma.cc/FC9P-TEL3>; Andrew Deck, We tested ChatGPT in Bengali, Kurdish, and Tamil. It failed., *Rest of World* (September 6, 2023) available at <https://restofworld.org/2023/chatgpt-problems-global-language-testing/> (last visited May 8, 2025). Permalink at <https://perma.cc/UDS5-P3GM>.

<sup>8</sup> *Id.*

<sup>9</sup> *See e.g.*, Faheem, M.A., et al. Improving neural machine translation for low resource languages through non-parallel corpora: a case study of Egyptian dialect to modern standard Arabic translation. *Sci Rep* 14, 2265 (2024) available at <https://doi.org/10.1038/s41598-023-51090-4> (last visited May 8, 2025) (discussing the challenges of machine translation for dialects and the need for specialized systems to train machine translation applications on dialects). Permalink at <https://perma.cc/K4VJ-9S2Z>; Naveen, *supra note 1* (discussing challenges of translating idiomatic expressions using machine translation).

singular pronoun (e.g., creating translations such as “he is a doctor” or “she is a nurse” when the gender of the person is not specified by the pronoun).<sup>10</sup>

Accuracy problems can also be compounded when using machine translation in conversational settings due to language recognition problems and general limitations of speech-to-text applications. Even in languages like Spanish, where these models perform best, certain dialects and regional forms of the language are far less accurate, and speech-to-text applications may struggle to identify the target language.<sup>11</sup> Additionally, speech-to-text applications can create comprehension errors in any language due to lack of spoken punctuation and problems with software recognizing soft or accented speech.<sup>12</sup>

The American Translators Association describes the limitations of machine translation as follows: “MT [Machine translation] is based on probability — not meaning. It doesn’t understand the meaning or the context of what it’s translating. MT guesses the most likely translation so, if you cannot read both languages, you will never know if it guessed correctly.”<sup>13</sup>

## Confidentiality

Content shared with free machine translation software may not be confidential. Rather, this content may be used to further train and improve the translation software or the AI platform’s services.<sup>14</sup> Given this, it is important to understand the terms of use for any machine translation software and how content shared with the software will be used. Because courts handle sensitive and confidential information regularly, courts must understand and consider whether

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<sup>10</sup> See e.g., Beatrice Savoldi et. al., Gender Bias in Machine Translation, 9 *Transactions of the Association for Computational Linguistics* 2021, at 845–874 (August 18, 2021), available at [https://direct.mit.edu/tacl/article/doi/10.1162/tacl\\_a\\_00401/106991/Gender-Bias-in-Machine-Translation](https://direct.mit.edu/tacl/article/doi/10.1162/tacl_a_00401/106991/Gender-Bias-in-Machine-Translation) (last visited May 8, 2025). Permalink at <https://perma.cc/8843-TKND>.

<sup>11</sup> See e.g., Language and voice support for the Speech service, Microsoft.com (May 3, 2025) <https://learn.microsoft.com/en-us/azure/ai-services/speech-service/language-support?tabs=stt> (last visited May 8, 2025)(showing limited forms of Spanish available in the Azure quick speech recognition help page, i.e., of the 23 unique forms of Spanish spoken around the world, only Spanish from Spain and Mexico are available for speech recognition). Permalink at <https://perma.cc/ZV7P-C3KD>

<sup>12</sup> Stanford Legal Design Lab, AI, Machine Translation, and Access to Justice (February 11, 2025) available at <https://justiceinnovation.law.stanford.edu/ai-machine-translation-and-access-to-justice/> (last visited May 8, 2025). Permalink at <https://perma.cc/LH5Y-REQM>

<sup>13</sup> American Translators Association, What is Machine Translation?, atanet.org, <https://www.atanet.org/client-assistance/machine-translation/> (last visited May 8, 2025). Permalink at <https://perma.cc/JN8B-ZHTU>

<sup>14</sup> *Id.*

machine translation programs create a risk of liability when it comes to confidentiality laws and requirements.

## Legal and Ethical Responsibilities of State Courts

Title VI of the federal Civil Rights Act prohibits discrimination on the basis of national origin, including discrimination due to limited English proficiency (LEP). This prohibition extends to recipients of federal funds, including state courts.<sup>15</sup> Many states also have laws prohibiting discrimination on the basis of limited English proficiency.<sup>16</sup> This means that state courts must provide services to LEP court users in their native language and that courts must ensure these language services provide LEP court users with accurate information that is the equivalent of (i.e., the same as) information provided to English-speaking court users.

State courts also operate under state and federal constitutional requirements to provide court users with due process and fair and equal access to court proceedings and services. Using machine translation has the potential to seriously impact people's statutory and constitutional rights and the fundamental fairness of the court process. Because of this, courts must proceed with caution when considering the use of machine translation. Unconsidered, widespread use of machine translation in the court context can both violate court users' rights and expose courts to legal liability.

In addition to their legal responsibilities, state courts must also address the public's diminished trust and confidence in the judiciary.<sup>17</sup> If state courts provide inaccurate or incomprehensible information to court users due to machine translation, these court users may not only see their legal rights seriously impacted, but they will lose trust and confidence in the court system as well.

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<sup>15</sup> *See*, U.S. Department of Justice Office of Justice Programs, Limited English Proficient, *Office for Civil Rights*, available at <https://www.ojp.gov/program/civil-rights-office/limited-english-proficient-lep> (last visited May 8, 2025). Permalink at <https://perma.cc/X5CM-U4H5>.

<sup>16</sup> *See e.g.*, Hawaii Language Access Law Chapter 321C; Michigan Meaningful Language Access to State Services Act, 2023; Nevada Revised Statutes §§1.510-1.570; New Jersey Senate Bill 2459- 2023; New York Statutes Chapter 18, Article 10, § 202-A.

<sup>17</sup> National Center for State Courts, State of the State Courts 2024 Poll, available at <https://www.ncsc.org/resources-courts/state-state-courts-2024-public-opinion-poll-findings> (last visited May 8, 2025). Permalink at <https://perma.cc/43KP-SDKW>.



# Current Guidance on the Use of Machine Translation

The federal government and professional translation associations have offered guidance and cautions about the use of machine translation as described here.

## Federal Guidance on the Use of Machine Translation<sup>18</sup>

The U.S. Department of Justice (DOJ) has issued guidance for recipients of federal funds, like state courts, regarding the use of machine translation and addressing the limitations of machine translation. This guidance discourages the use of machine translation alone even with the use of a disclaimer and recommends that any machine translated information be reviewed by a professional translator.

Examples of federal guidance include:

The Federal Coordination and Compliance Section of the DOJ's Civil Rights Division strongly discourages the use of machine translation "even if a disclaimer is added."<sup>19</sup> If an agency decides to use software-assisted translation, "it is important to have the translation reviewed by a qualified language professional [...] to ensure that the translation correctly communicates the message."<sup>20</sup>

- The LEP Committee of the Federal Title VI Interagency Working Group also reiterates the need for a human translator review as follows: "If the entity utilizes machine translation software, the entity should have a human translator proofread all content containing vital information."<sup>21</sup>

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<sup>18</sup> At this time, federal websites and guidance from executive branch agencies are rapidly changing. The website content cited here was active as of the time of writing, and we have indicated in our citations when those websites were last accessed and have used [Perma.CC](#) to create unbreakable links.

<sup>19</sup> Civil Rights Division, US Department of Justice, Common Language Access Questions, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs (August 2011) at 13, available at [https://www.lep.gov/sites/lep/files/resources/081511\\_Language\\_Access\\_CAQ\\_TA\\_Guidance.pdf](https://www.lep.gov/sites/lep/files/resources/081511_Language_Access_CAQ_TA_Guidance.pdf) (last visited April 16, 2025). Permalink at <https://perma.cc/GZR3-95N9>.

<sup>20</sup> *Id.*

<sup>21</sup> English Proficiency Committee, Title VI Interagency Working Group, Improving Access to Public Websites and Digital Services for Limited English Proficient (LEP) Persons, (December 2021) at 4, available at [https://www.lep.gov/sites/lep/files/media/document/2021-12/2021\\_12\\_07\\_Website\\_Language\\_Access\\_Guide\\_508.pdf#page=4](https://www.lep.gov/sites/lep/files/media/document/2021-12/2021_12_07_Website_Language_Access_Guide_508.pdf#page=4) (Last visited April 16, 2025). Permalink at <https://perma.cc/4M2X-657Z>.

- [Digital.gov](#) warns that machine translation alone should be used in “very limited emergency situations, after work hours or during an emergency, [ . . . ] if no other translation options are available and you need to know immediately what the non-English text says, that is when you might decide to use an automatic or machine translation service to get the gist, or basic understanding, of what is communicated. Once you have that basic understanding, you will need to send the original non-English text to a competent translator.”<sup>22</sup>

## Professional Association Guidance

Professional translation and interpretation associations have also issued guidance on when and how to use machine translation responsibly.

### The American Translators Association

The American Translators Association (ATA), which “establish[s] standards of competence and ethics, to provide its members with professional development opportunities, and to advocate on behalf of the profession,”<sup>23</sup> has developed guidance on the use of machine translation generally. ATA describes the value of free machine translation services as “tools for gaining an *approximate* idea of what a foreign-language communication says.” Machine translation alone cannot be relied on to convey nuance or complicated concepts, such as those in the court context.<sup>24</sup>

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<sup>22</sup> Michael Mulé, 10 tips to Create, Maintain, and Present Non-English Digital Content: a Q&A with Michael Mulé, [digital.gov](#) (May 23, 2022) available at <https://digital.gov/2022/05/23/10-tips-to-create-maintain-and-present-non-english-digital-content-a-qa-with-michael-mule/> (last visited April 16, 2025) Permalink at <https://perma.cc/3VUD-SRRM>.

<sup>23</sup> American Translators Association, Who We Are, [atanet.org](#), <https://www.atanet.org/about-us/who-we-are/> (last visited May 8, 2025). Permalink at <https://perma.cc/M28B-NCFE>.

<sup>24</sup> *Supra*, note 13.

## SAFE-AI Task Force

The SAFE-AI Task Force, which “establish[s], disseminate[s] and promote[s] industry-wide guidelines and best practices for accountable design and adoption of AI in interpreting,”<sup>25</sup> recommends the following in settings where machine translation is used:

- Informed consent where a user can accept or decline the use of an AI product with confidence that a human translator will be provided in a timely manner
- The ability to opt in or out of data collection and storage without penalty
- A mechanism to shift from AI to human interpreting (or vice-versa) at any time
- A user-friendly grievance process to report errors or harm
- User friendly explanations of “privacy” and “confidentiality”
- Explanations of degrees of AI involvement in the interpreting process<sup>26</sup>

## How Can Machine Translation Be Used Responsibly in the Court Context?

As discussed above, courts have legal and ethical responsibilities to ensure that they do not discriminate against court users on the basis of limited English proficiency and that they provide due process and fair and equal access to all court users. To ensure that they meet these responsibilities, courts must think carefully about how and if to use machine translation and create adequate safeguards.

Machine translation is new territory for courts. A recent NCSC survey of state court language access program managers indicated that only one state out of eleven respondents uses machine translation in any form, and this state only uses it in the context of Communication Access Realtime Translation (CART) Services and AI-generated Closed Captioning (CC). These

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<sup>25</sup> SAFE-AI, Interpreting SAFE AI Task Force Guidance (June 2024) at 2, available at <https://safeaitf.org/wp-content/uploads/2024/07/SAFE-AI-Guidance-07-01-24.pdf> (last visited May 8, 2025) (hereinafter SAFE-AI Guidance). Permalink at <https://perma.cc/4AGA-83FP>.

<sup>26</sup> *Id.* at 4.

tools have been used to provide access for hard of hearing court users and for those with attention deficit disorder and have been used only for English, at court events.

Because machine translation is a relatively new technology with significant limitations, courts should think carefully and move slowly when incorporating machine translation into any part of a court's interactions with the public.

### **Only use qualified court interpreters for courtroom interactions**

Courts should only use qualified court interpreters for courtroom interactions. The consequences of erroneously translated courtroom communications could be significant for both the LEP court user and the court itself. Given the risk of inaccuracy inherent in machine translation, and the potential for constitutional and statutory violations this inaccuracy could cause, courts should never use machine translation for courtroom interactions.

### **Use qualified court interpreters and bilingual staff<sup>27</sup> to provide language access services outside of the court room whenever possible**

Whenever possible, courts should provide language access at non-courtroom points of contact through bilingual staff or qualified court interpreters. Courts should only use bilingual staff or qualified court interpreters, not machine translation, for extended or nuanced conversations or interactions involving legal rights, legal process, or an individual's situation.

### **Significantly limit the use of machine translation to brief, non-complex, out-of-court interactions**

Machine translation may be able to help court staff navigate simple interactions with non-English speakers outside of the courtroom where limited, non-legal information is conveyed. However, "simple" interactions can quickly grow complex. What may start out as a simple inquiry can grow to a more in-depth, complex conversation. Courts should be aware that a situation may start out low risk, but change into something more high risk. Court staff will need to be trained to recognize these shifts and when it is no longer appropriate to use machine translation tools.

Interactions where it may be appropriate to use machine translation include:

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<sup>27</sup> Qualified court interpreters are interpreters who have received a certification specific to interpretation in the legal context. Bilingual staff, while they may speak multiple languages, may not have the same level of skill and understanding as a qualified court interpreter when it comes to legal terminology, legal process, or legal proceedings. Therefore, courts should think carefully about what bilingual staff can do and what interactions requires a qualified court interpreter. Bilingual staff who provide in-language services should also be qualified in some capacity (language proficiency testing) to ensure they are able to effectively communicate in the non-English language. Qualified court interpreters should always interpret for court proceedings.

- **Providing directional/wayfinding information:** Information about locations in a courthouse (e.g., Where is the bathroom? Where is the self-help center?). However, courts should think carefully when the intersection of directions and legal impact are involved (e.g., Where is a particular courtroom? Where can I file court paperwork?) as incorrect information in these contexts could lead to legal repercussions and harm.
- **Gathering information to be used for referrals:** Court staff may be able to provide referrals to legal services or other organizations using machine translation applications. However, this should not be the only way that court users can access referrals. Courts may also use machine translation to connect court users to court services with the understanding that these services must provide interpreters and not rely on machine translation to continue assistance for the court user.
- **Gather preliminary information about a person's situation:** Court staff may be able to use machine translation to get a broad view of a person's situation and needs to understand what additional language services and other resources are necessary to support the person.

## Use machine translation as a starting point for human review

Courts may want to use machine translation as a starting point for developing informational resources or providing translations of court documents. Machine translation might be used to create draft translations of legal forms, legal instructions, or court transcripts. However, these translations will need to be reviewed by a professional legal translator. Machine translation may help create draft content that can be refined by professional legal translators as a way to increase efficiencies.

## Clearly inform court users if communication or information was created using machine translation and about the limitations of machine translation

Communicating to court users about the use and limits of machine translation will alert users to fact that machine translated communications or information may contain errors and inaccuracies. The language about limitations should clarify that the information may be inaccurate and that court users always have the right to ask for a human interpreter or translations performed by a human translator. This disclaimer information should be created by a professional legal translator and should be available to court users in multiple languages.

One example of this type of communication is California’s sample disclaimer for court website use that reads:

Some pages on our website allow you to use Google Translate (an automatic machine translation) so you can read them in your language. Also, some of the information on this site has been translated using Google Translate. Using Google Translate can result in mistakes and give you the wrong information. It is best if you check with the court, the self-help center, or a lawyer if you have questions about your legal case.<sup>28</sup>

## **Only use machine translation for in-person interactions after users have provided informed consent**

In addition to disclaimers about the use of machine translation and its limitations, when using machine translation tools to communicate with users during in-person interactions, require informed consent from court users. This includes providing users with professionally translated information about the use of machine translation, limitations, how data will be used and stored, and the ability to opt in or out of data usage and storage.<sup>29</sup>

## **Create a grievance procedure related to problems arising from the use of machine translation**

Create a grievance procedure to ensure that court users who experience problems with the use of machine translation or feel their rights have been violated have a way to bring attention to problems with machine translation use and seek redress.

A grievance procedure not only helps protect court users but can give courts valuable information about problems with machine translation use.

Use or failure to use this grievance procedure should not limit or eliminate any other rights a user might have (e.g., the right to bring suit or the right to appeal a court decision).

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<sup>28</sup> Judicial Council of California, Guide for Local Language Access and LEP Plan Web Pages (July 2016), available at <https://languageaccess.courts.ca.gov/sites/default/files/partners/default/2023-07/lap-local-lep-plan-guidance-materials-web.pdf> (last visited May 8, 2025). Permalink at <https://perma.cc/RLW4-SZ2K>.

<sup>29</sup> For more information about data governance, AI, and courts *see*, Diane Robinson, et.al., Data Governance and AI in State Courts, National Center for State Courts (2024) at <https://www.ncsc.org/resources-courts/data> Permalink at <https://perma.cc/4NWA-ATKY>; National Center for State Courts, Data Governance, <https://www.courtstatistics.org/state-courts/data-governance-policy-guide> (last visited May 8, 2025) (hereinafter NCSC Data Governance). Permalink at <https://perma.cc/753B-7RAG>; National Center for State Courts, Exiting Tech (2021-2022), available at <https://exit.smallscale.org/> (last visited May 8, 2025) (hereinafter NCSC Exiting Tech). Permalink at <https://perma.cc/E7XG-8XGR>.

The grievance procedure should include at a minimum:

- How people can file a grievance
- Who will make a determination about the grievance
- What information will be considered in making a determination about the grievance. (e.g., if machine translation is used in a live setting, how will courts get a copy of the transcript to evaluate the translation and determine if an incorrect translation caused harm to the court user?)
- How people can submit information or evidence to be considered as part of the grievance
- Possible redress available through the grievance process
- How people will be informed about the outcome of the grievance process

### Consider developing custom-programmed machine translation applications

Custom-programmed machine translation applications can be refined and trained to more accurately translate legal or specialized terminology. As the ATA explains in a position paper on machine translation:

Custom-programmed machine translation engines — regardless of their underlying technology — are trained by a specific organization for a specific purpose with specific language material, using either proprietary rules and dictionaries and/or professionally translated texts or even non-translated texts. Results from these programs are much more reliable when it comes to terminology, and confidentiality is addressed by limiting access. Despite this, translation done by custom-programmed machine translation software will still need human review.<sup>30</sup>

Courts that are interested in using machine translation for the parameters described above should consider developing their own custom-programmed applications to ensure that legal terms are translated correctly. Even seemingly simple terms like “court” can be translated incorrectly given the limitations of machine translation software when it comes to

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<sup>30</sup> ATA Position Paper on Machine Translation: A Clear Approach to a Complex Topic (August 3, 2018) available at <https://www.atanet.org/client-assistance/ata-position-paper-machine-translation-a-clear-approach-to-a-complex-topic/> (last visited May 8, 2025). Permalink at <https://perma.cc/QU98-8WEY>.

understanding and adapting to context.<sup>31</sup> Using a custom-programmed application can help address inaccuracies with legal terminology by increasing the chances that legal terms will be translated consistently and correctly. A custom-programmed application can also help address concerns about confidentiality as the court can control how information inputted into the platform is used and shared.<sup>32</sup>

## Create jurisdiction-wide policies about the use of machine translation

Courts should create clear, jurisdiction-wide policies about when and how machine translation can be used. These policies should include:

- What machine translation applications are authorized. In considering this question, courts should understand and consider the following:
  - How applications collect, store, and use data.
  - How applications were trained. (E.g., What languages the application was trained on, whether the application was trained on regional or local dialects, how the application incorporates feedback.)
  - Whether the application has been audited for biases.<sup>33</sup>
- When machine translation can be used.
  - The policy should clarify that machine translation alone should not be used to translate court filings, court forms, or legal information resources, and that any machine translation of these documents must be reviewed by a professional legal translator.
  - The policy should clarify that machine translation should not be used to interpret spoken interactions in the courtroom.

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<sup>31</sup> NCSC staff observed a pilot court-based machine translation effort that routinely mis-translated the word “court” to include various kinds of sports courts, leading to confusion by court patrons, who were confused by the incorrect usage, and by court staff, who did not understand the problem because they did not speak the language the tool was translating into.

<sup>32</sup> For guidance on contracting with technology vendors, *see* NCSC Data Governance; NCSC Exiting Tech; *supra*, note 29.

<sup>33</sup> For more information about vendor questions, *see*, SAFE-AI Guidance at 8-10, *supra*, note 25.



- The policy should clarify that machine translation might be used to translate limited information related to wayfinding and referrals and to gather limited preliminary information about a court user’s situation or needs to understand what additional information and services, including language access services, the person might need.
- The policy should give guidance about when an interaction escalates from “simple” to “complex” (including criteria on how to evaluate when an interaction has changed in this way) and how court staff should respond in this situation.
- How court users will be informed about the use of machine translation, the limitations of machine translation, and data collection and use.
- How informed consent for the use of machine translation will be collected.
- How grievances over the use of machine translation will be handled and how court users can submit a grievance.
- How confidentiality of information provided to the machine translation platform will be addressed.<sup>34</sup>
- How machine translated information will be reviewed for quality and accuracy to inform the use of machine translation and policies related to its use going forward.
- Which languages are permissible and to what extent/in which settings.
- How a record of inputs and outputs is stored/maintained for human review and audit as well as for determining the merits of a grievance.
- Whether and how a court must attempt to use human language services before machine translation can be considered.
- The feasibility of large-scale implementation to ensure jurisdictional consistency.

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<sup>34</sup> For information about confidentiality and contracting for machine translation services, *see, id.* *See also*, National Center for State Courts, Contracting Digital Services for Courts (May 2022) available at <https://www.ncsc.org/resources-courts/contracting-digital-services-courts> (last visited May 8, 2025). Permalink at <https://perma.cc/4QU2-RV26>.

## Conclusion

While machine translation may have great future promise, it is not at a point where courts can rely on its use for extensive interactions or to accurately convey complex legal information. Courts should not use machine translation for in-court interactions or to convey complex legal information to LEP court users. Courts should think carefully about parameters and legal and ethical considerations when using machine translation for limited out-of-court interactions.