

LANGUAGE ACCESS PLAN FOR LEP INDIVIDUALS

State Agency: Workers' Compensation Board (WCB)

Effective Date of Plan: April 1, 2015

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PART 1 – INTRODUCTION

Pursuant to Executive Order No. 26 (“Statewide Language Access Policy”), we have prepared this Language Access Plan (“Plan”) that sets forth the actions we will take to ensure that persons with limited English proficiency (“LEP”) have meaningful access to agency services, programs, and activities.

Statement of Agency Services to the Public:

Workers' compensation is insurance that provides cash benefits and/or medical care for workers who are injured or become ill as a direct result of their job. Employers pay for this insurance, and shall not require the employee to contribute to the cost of compensation. Weekly cash benefits and medical care are paid by the employer's insurance carrier, as directed by the Workers' Compensation Board. The Workers' Compensation Board (WCB) is the state agency that processes the claims. If WCB intervention is necessary, it will determine whether that insurer will reimburse for cash benefits and/or medical care, and the amounts payable.

In developing this plan, we have understood LEP individuals to be persons who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. We will reassess language needs periodically as needed, but at least every two years starting from the effective date of this plan.

PART 2 – ASSESSING LEP POPULATION LANGUAGE NEEDS

The estimated total number of individuals in our service area is: 14,000,000.

The top six languages spoken by LEP individuals that our agency serves or could potentially serve are as follows:

Language	Estimated Number of LEP Individuals Who Speak this Language
Spanish	13,250 Annual Calls / 5,685 Open Cases
Chinese (Mandarin / Cantonese)	900 Annual Calls / 297 Open Cases
Russian	525 Annual Calls / 191 Open Cases
Italian	85 Annual Calls / 32 Open Cases

Korean	104 Annual Calls / 70 Open Cases
French (Haitian) Creole	329 Annual Calls /87 Open Cases

We use the following resources to determine the top six languages spoken by LEP individuals:

- U.S. Census data (including American Community Survey data)
- Agency data on client contacts
- School system data
- Information from community organizations that serve LEP individuals

Names of organizations:

- Information from other government agencies

Names of agencies: U.S. Department of Labor.

- Other (describe)

We have determined the frequency of our contacts with LEP individuals as follows:

Data on the number of times oral interpreting services were requested (in FY 2013-2014) as well as the number of open cases were used to determine the most frequent languages encountered. This data was then compared against U.S. Census and U.S. Department of Labor data on common languages to identify any anomalies.

PART 3 – PUBLIC OUTREACH AND NOTICE OF AVAILABILITY OF LANGUAGE ASSISTANCE SERVICES

We inform LEP individuals, in the languages indicated in the chart in Part 2 of this plan, about their right to free language assistance services by using the following measures:

- LEP individuals are informed directly by our staff

In what ways? At any public contact (in person or by phone) if an individual indicates a need for language assistance.

- Brochures or flyers about language assistance services

- In public areas of the agency

- Elsewhere in the agency's service areas
- Signs posted about language assistance services
 - In public areas of the agency
 - Elsewhere in the agency's service areas
- Outreach and presentations at schools, faith-based groups, and other community organizations

What are the LEP populations targeted? WCB has conducted limited outreach through its recent Business Process Re-engineering Project. We have worked with Occupational Health networks and local, social, and economic justice groups to identify communication issues related to injured workers, including those workers that are not English proficient. We are in the process of developing a proposal to create a "Communication Unit" at the WCB that would incorporate best ways to ensure we are able to communicate with our constituency on a regular, ongoing basis.

- Local, non-English language media directed at LEP individuals in their languages
- Telephonic voice menu providing information in non-English languages
 - In which languages:** Presently Spanish.
- Other (describe)

PART 4 – PROVISION OF LANGUAGE ASSISTANCE SERVICES

We use the following resources to determine when an individual is LEP, and what the individual's primary language is, when the encounter is *in person*:

- "I Speak" posters or visual aids
- Reception staff makes those determinations based on experience, with the assistance of bilingual staff members where available
- Other (describe)

We use the following resources to determine when an individual is LEP, and what the individual's primary language is, when the encounter is *by telephone*:

- Reception staff makes those determinations based on experience, with the assistance of bilingual staff members where available

Telephonic interpreting service

Other (describe)

We record and maintain documentation of each LEP individual's language assistance needs as follows:

The Employee Claim Form (C-3) allows an individual to indicate the need for a translator and identify the language. This information (which also may be uncovered during initial contacts) is recorded in the electronic case folder.

A. Oral Interpreting Services

Our protocol(s) for assessing whether an LEP individual needs oral interpreting services is as follows:

For in-person encounters: LEP individual self-identifies need (either through limited proficiency or by having another person initiate contact) or staff interviews individual and makes determination based on experience, utilizing signs/posters where applicable.

By telephone: LEP individual self-identifies need (either through limited proficiency or by having another person initiate contact).

At initial contact in the field: LEP individual self-identifies need (either through limited proficiency or by having another person initiate contact) or staff interviews individual and makes determination based on experience, utilizing signs/posters where applicable.

For pre-planned appointments with LEP individuals: LEP individual has previous self-identified need, which is now recorded in the case file. Staff refers to the case file.

Other (describe):

Our protocol(s) for informing LEP individuals that they do not need to provide their own interpreters and that free interpreting services will be provided is as follows:

For in-person encounters: Staff informs the LEP individual directly while utilizing the interpreting services; utilizing signs/posters where applicable.

By telephone: Staff informs the individual directly while utilizing the interpreting services.

At initial contact in the field: Staff informs the LEP individual directly while utilizing the interpreting services.

For pre-planned appointments with LEP individuals: Staff informs the LEP individual of the

availability of interpreting services as part of the notification in scheduling the appointment.

Other (describe): Our website informs LEP individuals on how to contact us via telephone and that free interpreter assistance is provided.

If an LEP individual insists on using a family member, friend, or other person as an interpreter, our protocol(s) for determining whether to accept or decline such an arrangement is as follows:

LEP individuals that come into contact with our agency will be informed of the availability of free interpreting services. Generally, an LEP individual may not use a family member, friend, or a minor as an interpreter. However, **during emergencies** an LEP individual will be permitted to use a minor, a family member or friend as an interpreter. Upon request, an LEP individual may also be permitted to use a minor, a family member or friend as an interpreter for routine matters, such as asking the location of the office, hours of operation or rescheduling an appointment. Where the interaction with the LEP individual occurs at the agency's office and an individual is permitted to use an interpreter of his or her choosing, he or she must fill out a written consent/waiver form.

Where an LEP individual is engaged in official business with the agency, the agency will provide an independent interpreter at all times. An LEP individual will not be permitted to use an independent interpreter of his or her choosing when filling out applications or when involved in other legal matters.

Our protocol(s) for obtaining interpreter services in a timely manner is as follows:

Language Services Associates (LSA) services are available over-the-phone on demand. All staff is authorized to contact LSA directly and in a timely manner; supervisory approval is not required.

We record and maintain documentation of oral interpreting services provided to LEP individuals at each encounter as follows:

LSA maintains records on the number of encounters, duration, type of service, time of day and language provided. These records can be requested and WCB has a process in place to verify that payments to LSA are consistent with services requested.

Competency and confidentiality

The linguistic and cultural competence of interpreters is addressed as follows:

Where WCB utilizes independent interpreting services, that vendor will implement quality assurance standards to guarantee that its interpreters are linguistically and culturally competent. The agreement with LSA states that "services shall be performed by professional and experienced interpreters that possess demonstrated proficiency levels that range from the ability to speak the language with sufficient structural accuracy and vocabulary, to effective participation in most formal and informal conversations on practical, social and professional topics. The maximum proficiency level will demonstrate that of a highly articulate well-educated native speaker which reflects the cultural standards of the country where

the language is natively spoken." LSA takes steps (including interviews prior to employment and requiring completion of training modules before availability for certain services) to ensure that its interpreters meet these standards.

Employees in Civil Service positions with language parentheses are required to demonstrate proficiency at Level 2 prior to appointment. This is defined as:

- Participates in conversations and discussions on a range of topics conducted at normal speed.
- Vocabulary meets the needs of most personal, social and practical business topics.
- Speaks with sufficient grammatical control and accuracy to participate effectively in conversations.
- Speaks without hesitation and with few errors. Minor errors that do occur do not interfere with communication.
- Understandable, smooth expression at a conversational level of communication.

The issue of confidentiality pertaining to the use of interpreters is addressed as follows:

Independent interpreters will enforce standards of confidentiality in accordance with NYS Law. The agreement with LSA states that "all information and material shall remain the property of the Authorized User. The Contractor shall maintain the confidentiality of all material, identity of any parties and content of any material released to the Contractor for translation." Confidentiality is an industry standard and LSA further ensures it by requiring its interpreters to sign agreements.

All WCB staff bound by Workers' Compensation Law §110-a, which prohibits the release of any of the information in a case file except to those who are party to the claim (including employer, employer's workers' compensation insurance carrier, employer's attorney, and claimant's attorney), anyone to who has been given written permission to access claim information, or anyone who has obtained a court-order authorizing them to access claim information. Staff is trained on the requirements of this law at the time of hire. The training provided to staff will address the importance of confidentiality.

Maintaining a list of oral interpreting resources

We use, or have available for oral interpreting, the following resources:

- Bilingual staff members who work directly with LEP individuals

Number of staff and languages spoken: WCB has 6 staff members (and 12 vacant positions) who speak Spanish as part of their official duties in their Civil Service position. There are also a handful of employees who are native speakers of other languages and may work with LEP individuals (6 Spanish, 3 Mandarin/Cantonese, 1 German, 1 Hindi, 1 Yoruba, and 1 Russian).

- Bilingual staff members who provide oral interpreting when necessary

Number of staff and languages spoken:

- Telephonic interpreting service

Names of vendors: Language Service Associates and potentially any other vendor under the OGS Statewide Administrative Services Contract.

- Contracts or other arrangements with community organizations or individuals for oral interpreting services

Names of individuals/organizations and languages:

- Other (describe)

The agency's Language Access Coordinator maintains the list of oral interpreting resources that are available to staff, which includes:

- Names and contact information for all resources
- Names and locations of staff members who are available to act as interpreters or provide services directly in the LEP individual's primary language
- Languages in which each interpreter or service is qualified
- Procedure for accessing each interpreter or service

We inform all staff members who have contact with the public how to obtain oral interpreting services as follows:

Availability of oral interpreting services, procedures for accessing those services, and some translations of common phrases ("One Moment Please") are currently maintained on the WCB's Intranet procedure site. This information is also incorporated into the staff training program described in Part 5.

B. Translations of Written Documents

The process to determine and reassess, at least every two years starting from the effective date of this plan, those vital documents (including website content) which must be translated is as follows:

Consideration of language access service requirements is added to the WCB's form revision and clearance process. Also, on an annual basis (or more often as needed), the Language Access Coordinator reconvenes the LAP Working Group to review the items monitored (documented in Part 6) to ensure compliance and propose any updates or changes needed.

The process to timely translate documents that LEP individuals submit in their primary languages is as follows:

All documents in need of translation are sent to the selected vendor in a timely manner. For a document that is regularly available in other languages, the WCB's scanning vendor (Xerox) makes a translation of the document available in the electronic case folder at the same time as the original. Language Line (Lingo Net) provides the written translations of any document as necessary for the case file. Both original and translated documents are placed in the file.

The process for ensuring that documents are written in plain language before they are translated into other languages is as follows:

WCB aims to have all of its documents read at a 7th grade level and regularly makes use of online tools (such as Google's Reading Level Analyzer) to achieve this goal. The WCB may also contract with a vendor for this service as needed, such as during its recent form re-design project (when major forms were tested against this goal as part of the revision process).

The following documents are currently translated by the agency in the languages indicated:

WCB defined an "individual" as an injured worker or an employer and identified over 300 vital documents. These documents were then reviewed for their role, volume and present translation offerings to determine which of two available options were the best approach for translation.

- 1) Translation into a foreign language - all major publications and forms that serve as an injured worker's first contact will be addressed through this option.
- 2) Transmission with a notification (in the appropriate languages) of available oral interpreting services – all other documents were included in this category for one of the following reasons:
 - a. It is a form for an employer - WCB is already moving away from document-based reporting for employers and towards electronic reporting by insurance carriers and other payors.
 - b. It is a form with a very low volume.
 - c. It is a poster or other document that WCB determines the content, but another stakeholder (employer or carrier) is responsible for printing and posting.
 - d. It is not an initial contact document.
 - e. It is a system-generated document – WCB's current systems and database structure are not equipped to always determine the appropriate language or to store the characters needed for the transcription.

The attached spreadsheet lists all vital documents and the WCB's recommendation for translation. Estimated annual volumes may represent forms submitted, documents sent out, or forms downloaded from the WCB's website (depending on what is currently tracked). Documents with no estimated annual volume are either a publication/poster (where volume is not tracked) or have a very low annual volume (generally less than 100).

The process for ensuring that translations are accurate and incorporate commonly used words is as follows:

WCB through its vendor (where applicable), will ensure that proofing/editing for correctness and cultural sensitivity are a component of the translation services provided by any vendor under contract as part of the publication process. WCB will also ensure that plain language is used in materials produced before translation to ensure information is accessible to a range of literacy levels.

We use, or have available for translating, the following resources:

- Contracts with language service vendors

Names of vendors: Language Line Solutions and potentially any vendor under the OGS Statewide Administrative Services Contract.

- Contracts or other arrangements with community organizations or individuals for oral interpreting services

Names of individuals/organizations and languages:

- Oral translations of written documents by bilingual staff members
- Oral translations of written documents by other individuals or community organizations
- Other (describe)

The agency's Language Access Coordinator maintains the list of written translation resources that are available to staff, which includes:

- Names and contact information for all resources
- Names and locations of staff members who are available to provide oral translations of written documents
- Languages in which each translation service is qualified
- Procedure for accessing each translation service

PART 5 – STAFF TRAINING

The person(s) in the agency who is responsible for the provision of training to staff in

language access issues is: Joan Rogers, Director of Staff Development.

The staff training includes the following components:

- The legal obligations to provide meaningful access to benefits and services to LEP individuals
- How to access language assistance services
- How to work with interpreters
- Cultural competence and cultural sensitivity
- Documenting the language needs of LEP individuals and the language services provided to them by the agency
- How to obtain written translation services

The methods and frequency of training are as follows:

- Mandated language access via the Statewide Learning Management System (SLMS) training with performance support materials (may include job aids for handling callers while accessing services and sensitivity-building videos, etc.) is provided on an annual basis.
- The language access training via the SLMS became the mandated training for all new employees.
- Refresher programs are done periodically to reinforce and build knowledge and skills.

PART 6 – ADMINISTRATION

Monitoring

To ensure compliance with the Plan, the LAC will monitor its implementation as follows:

WCB will monitor its document submissions (both overall and by language) to confirm the appropriate documents and languages have been selected. It will also monitor its requests for oral translation services to confirm the appropriate languages have been selected. Finally, it will track complaints (both about existing services and missing services) to determine where gaps exist and take action as appropriate.

Complaints

We provide information to the public, including to LEP individuals in languages regularly encountered in this service area, advising them of the right to file a complaint if they feel that they

have been the subject of discrimination. The information we provide describes how and/or where to file a complaint. We do not retaliate or take other adverse action because an individual has filed a complaint alleging discrimination based on LEP status or needs.


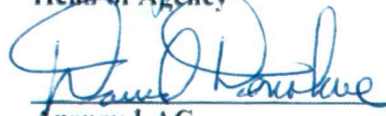

We display information on the right to file a complaint, and the procedures to file a complaint, in the following manner:

This information is incorporated into the brochures and signage identified in Part 3 to advertise WCB's language assistance services. Additionally, the standardized complaint forms and the information on the right to file a complaint are available to the public upon request in all six languages at our office.

We handle complaints made to the agency regarding the provision of language assistance services in the following manner:

A dedicated e-mail account was established to file complaints directly. All complaints submitted to this account or expressed to WCB staff (either over the phone, in person or in writing) are forwarded to the Language Access Coordinator for evaluation, resolution and response. We have identified this as our LAC-1 process.

PART 7 – SIGNATURES

 Head of Agency	Executive Director Title	3/10/15 Date
 Agency LAC	Dir. of Claims Title	3/6/2015 Date
 Deputy Secretary for Civil Rights		3/4/15 Date