

LANGUAGE ACCESS PLAN FOR LIMITED ENGLISH PROFICIENT INDIVIDUALS

State Agency: Workers' Compensation Board (Board)

Effective Date of Plan: August 1, 2021

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This document is our agency's **Language Access Plan**.

A **Language Access Plan** explains how we provide services to people who have limited English proficiency.

This **Language Access Plan** includes information about:

	The Limited English Proficient (“LEP”) population in our service area.
	How we notify the public about language access services.
	Our resources and methods for providing language access services.
	How we train our staff to provide language access services to the public.
	How we monitor language access services and respond to complaints.

Table of Contents

PART 1 – Our Agency’s Services	3
PART 2 – The Limited English Proficient Population in Our Service Area.....	3
PART 3 – Public Outreach About the Availability of Language Access Services ...	4
PART 4 – Provision of Language Access Services	5
PART 5 – Staff Training.....	12
PART 6 – Monitoring the Plan and Responding to Complaints	13
PART 7 – Signatures.....	15



PART 1 – Our Agency’s Services

We prepared this Language Access Plan (“Plan”) to comply with Executive Order No. 26, as amended by Executive Order No. 26.1, which established New York’s [Statewide Language Access Policy](#).¹ This Plan explains how we make sure that Limited English Proficient (“LEP”) individuals have meaningful access to agency services, programs, and activities.

In this Plan, LEP individuals are understood as people who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

Our agency’s services to the public include:

The Board’s core mission is to protect the rights of employees and employers by ensuring the proper delivery of benefits to those who are injured or ill, and by promoting compliance with the law. Injured workers may be eligible for a range of benefits including the complete cost of medical care, wage replacement benefits and vocational rehabilitation and counseling. It is estimated that New York’s workers’ compensation system covers 8 million workers and half a million employers. Some employers buy workers’ compensation insurance from private insurance companies or from the New York State Insurance Fund. Some employers apply to become self-insured. Public sector employers (municipal, county and state government entities) may also become self-insured. The Board is responsible for the resolution of issues that may arise with respect to claims for workers’ compensation benefits, monitors carrier compliance with prompt payment of lost wage benefits to injured workers and ensures all employers provide the required coverage for their workers in compliance with the law. The Board is a 1,100-employee public agency. Over 168,000 claims are assembled each year. Each year, the Board receives over 15 million documents filed by a variety of system stakeholders including health care providers, injured workers, employers, attorneys and insurance carriers. As the regulator of workers’ compensation, the Board has an obligation to provide interpretation services when needed to ensure parties understand all aspects of their workers’ compensation case.



PART 2 – The Limited English Proficient Population in Our Service Area

Our agency uses U.S. Census data (including data from the American Community Survey) to determine the top ten languages most commonly spoken by LEP individuals in New York State.

¹ For additional information about our agency’s obligations to provide language access services, please visit: <https://www.ny.gov/language-access-policy>

The estimated total number of LEP individuals in our service area is: Approximately 2.5 million LEP individuals in New York State.

The top ten languages spoken by LEP individuals in New York State are:

#	Language	Estimated Number of LEP Speakers
1	Spanish	1,201,322
2	Chinese	379,745
3	Russian	119,380
4	Yiddish	64,070
5	Bengali	64,020
6	Korean	55,506
7	Haitian Creole	54,746
8	Italian	46,431
9	Arabic	40,781
10	Polish	34,840

Our agency will reassess the public’s language needs at least every two years after the effective date of this Plan.

Our agency tracks encounters with LEP individuals in the following ways:

The Board obtains generated reports quarterly from each vendor and Board staff maintain records on the number of encounters, duration, type of service, time of day and language provided.



PART 3 – Public Outreach About the Availability of Language Access Services

Our agency informs LEP individuals about their right to free language assistance services in the following ways, using at least the top ten languages shown in Part 2 of this Plan:

LEP individuals are directly informed by our staff

In which ways? At any public contact (in person) by utilizing “I Speak” language identification posters, which inform the public of the availability of free interpreting services, or by phone utilizing contracted interpretation vendors.

Signs posted about language assistance services

In areas operated by the agency and open to the public

Other (describe)

Information is published on our agency’s website in at least the top ten languages spoken by LEP individuals in New York State

- Outreach and presentations at schools, faith-based groups, and other community organizations
What are the LEP populations targeted? At every engagement the public is notified that language assistance is available to anyone by displaying the “I Speak” language identification poster, which provides information about the availability of free interpreting services. The Communication & Outreach Unit at the WCB conducts outreach on a regular basis throughout the year. The Language Access program has partnered with the Communication unit to incorporate best practices to ensure we are able to communicate with our constituency on a regular ongoing basis. In addition, the Board’s Chair has done several Spanish outreach events and the Advocate for Injured Workers and Advocate for Business speak to hundreds of injured workers and employers each year.
- Local, non-English language media directed at LEP individuals in their languages
What are the LEP populations targeted?
- Social media posts directed at LEP individuals in their languages
What are the LEP populations targeted? Spanish speaking claimants
- Telephonic voice menu providing information in non-English languages
In which languages? Spanish
- Other (describe)
Information about the availability of free language access services is provided with claimant notices generated from our system.



PART 4 – Provision of Language Access Services

A. Determining the Need for Services

During *in person* encounters, our agency uses the following tools to determine whether an individual is LEP, and what their primary language is:

- “I Speak” posters or visual aids that provide information about free interpreting services in multiple languages
- Reception staff make those determinations based on training and experience
- Bilingual staff members, where available, assist in identifying LEP individual’s language
- Other (describe)

On *telephone calls*, our agency uses the following tools to find out if an individual is LEP, and what their primary language is:

- Reception staff make those determinations based on training and experience

- Bilingual staff members, where available, assist in identifying an LEP individual's language
- Telephonic interpreting service
- Other (describe)

Our agency's protocols for assessing whether an individual needs *oral interpreting services* in different service situations is as follows:

During office in-person encounters: LEP individual self-identifies need (either through limited proficiency or by having another person initiate contact) or staff assesses LEP individual and makes a determination based on experience, utilizing signs/posters where applicable. If the LEP individual is attending a hearing, the Worker's Compensation Law Judge will ask if they need an interpreter. If yes, one will be connected into the hearing telephonically or via video conferencing.

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

When speaking on the telephone: LEP individual self-identifies need (either through limited proficiency or by having another person initiate contact) or with the help of the telephonic interpreter.

For pre-planned appointments with LEP individuals: In instances where an LEP individual has a previous self-identified need, that information is recorded in the case file. Staff refers to the case file and ensures interpretation services are available for scheduled hearings. In instances where there is no prior contact, the employee claim (Form C-3) is reviewed to determine preferred language and the file is updated accordingly.

Other (describe):

Our agency records and maintains documentation of each LEP individual's language assistance needs as follows:

The Employee Claim Form (C-3) allows an LEP individual to indicate the need for an interpreter and to identify their preferred language. This information (which also may be identified during initial contacts) is recorded in the electronic case folder. Initial contact could be a walk-in claimant to a Hearing Center or a telephone call from the claimant. Once we are aware, the language field is populated in the system so future hearings will be flagged as needing interpreter services.

B. Oral Interpreting Services

Our agency has made the following resources available for oral interpreting requests:

- Bilingual staff members who work directly with LEP individuals

Number of staff and languages spoken: Two Workers' Compensation Examiners (Spanish) and seven Assistant Workers' Compensation Examiners (Spanish)

- Bilingual staff members who provide oral interpreting services on a volunteer basis

Number of staff and languages spoken:

- Telephonic interpreting service

Name of vendors: Any vendor under the NYS OGS Statewide Administrative Services Contract.

- Contracts or other arrangements with school and community organizations

Number of staff and languages spoken:

- Other (Describe)

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

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

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

When speaking on the telephone: Staff informs the 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. Our Claims Information Systems application contains a field for language so any staff member, at any time, identifies the LEP individual's language. For hearing purposes, this is noted, and an interpreter is pre-scheduled or contacted on demand to service the LEP individual.

Other (describe): Our website informs LEP individuals how to contact us via telephone and explains that free interpreter assistance is provided. In addition, a notification stating the availability of free language access services is included in approximately 200 system generated documents mailed to the claimant.

Our agency's protocols for obtaining interpreting services in a timely manner is as follows:

Vendor services are available over the phone on demand. Staff are authorized to contact vendors directly; supervisory approval is not required.

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

LEP individuals will be informed of the availability of free interpreting services. Generally, an LEP individual is not allowed to use a family member, friend, or a minor as an interpreter for hearings. However, **during emergencies** an LEP individual will be permitted to use a minor, a family member or friend as an interpreter. Emergencies defined by the Judge or the inability to secure 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.

The agency will provide an independent interpreter at all times, except during emergencies as noted above. 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 agency provides information to all staff members who have contact with the public about how to obtain oral interpreting services. Our protocol in this regard is as follows:

Availability of oral translation services and procedures for accessing those services are currently maintained on the WCB's dedicated Language Access Intranet site. This information is also incorporated into the staff training program described in Part 5.

The agency's Language Access Coordinator ("LAC") maintains a list of oral interpreting resources that are available to staff. This resource list 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 an LEP individual's primary language
- Languages in which each interpreter or service is qualified
- Procedures for accessing each interpreter or service

Our agency records and maintains documentation of oral interpreting services provided to LEP individuals at each encounter. Our protocol in this regard is as follows:

The Board does not have a systematic way to capture and record oral interpreting services provided to LEP individuals at each in-person encounter at a Board office that is outside of a hearing.

Cultural Competence and Confidentiality

Our agency makes sure interpreters are culturally competent² in the following ways:

² Cultural Competence is defined as *a set of congruent behaviors, attitudes, and policies that come together in a system or agency or among professionals that enables effective interactions in a cross-cultural framework.* U.S. Department of Health and Human

Where WCB utilizes independent interpreting services, that vendor will implement quality assurance standards to guarantee that its interpreters are trained and are linguistically and culturally competent.

Our agency makes sure interpreters follow state and federal confidentiality protocols in the following ways:

Independent interpreters will enforce standards of confidentiality in accordance with NYS Law. The agreement with all vendors states "The Contractor, its officers, agents and employees and subcontractors, shall treat all information, with particular emphasis on information relating to recipients and providers, as confidential information to the extent required by the Laws of the State of New York and of the United States. "

All Board staff, and those who contract with the Board, must comply with 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 whom has been given written permission to access claim information, or anyone who has obtained a court-order authorizing them to access claim information. Staff are trained on the requirements of this law at the time of hire and annually thereafter. The training provided to staff addresses the importance of confidentiality.

C. Translations of Documents

At least every two years after the effective date of this Plan, our agency determines and reassesses vital documents (including website content) that must be translated. This process is accomplished in the following ways:

Consideration of language access service requirements is currently part of the WCB's form revision and clearance process. All proposed new forms are submitted to the Language Access Coordinator for review. Also, on an annual basis (or more often as needed), the Language Access Coordinator will convene the LAP Working Group to review the items monitored (documented in Part 6) to ensure compliance and propose any updates or changes needed.

Our agency's process for making sure documents are written in plain language³ before they are translated into other languages is as follows:

The Board aims to have all 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.

Services, Office of Minority Health. 2000. Assuring Cultural Competence in Health Care: Recommendations for National Standards and an Outcomes-Focused Research Agenda. Extracted from:

https://minorityhealth.hhs.gov/Assets/pdf/checked/Assuring_Cultural_Competence_in_Health_Care-1999.pdf

³ The [Plain Writing Act of 2010](#) defines plain language as writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience. Extracted from: <https://www.govinfo.gov/app/details/PLAW-111publ274>

Our agency has the following resources available for translation of documents:

- Contracts with vendors for translation services

Names of vendors: Geneva Worldwide, LanguageLine Solutions, American Sign Language, Corporate Translation, LinguaLinx, and potentially any other vendor under the OGS Statewide Administrative Services Contract.

- Contracts or other arrangements with schools and community organizations

Names of schools/organizations and languages:

- Translation of documents by bilingual staff members

- Other (describe)

The agency's Language Access Coordinator ("LAC") maintains a list of translation resources that are available to staff. This resource list includes:

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

Our agency translates documents that LEP individuals submit in their primary languages in a timely manner. Our protocol in this regard is as follows:

Our Quality Assurance Office (QA) and our scanning vendor pull vital documents in languages other than English at the time of receipt. QA staff is notified and submits the documents to the written translation vendor with an order priority of 2-3 business days.

The following non-exhaustive list of documents are currently translated by our agency in the languages indicated:

In compliance with Executive Order 26.1, our agency will complete translations of the below list of documents in the newly added top languages (Arabic, Italian, Polish, and Yiddish) by August 1, 2022.

- *AR: Arabic*
- *BE: Bengali*
- *CH: Chinese*
- *HA: Haitian-Creole*
- *IT: Italian*
- *KO: Korean*
- *PO: Polish*
- *RU: Russian*
- *SP: Spanish*
- *YI: Yiddish*

WCB Forms and Publications are translated into the following languages: Spanish, Russian, Chinese, Korean, Haitian-Creole, Polish, Bengali, Yiddish and Italian. Documents will be translated into Arabic by August 1, 2022.

Form ID	Name
AFF-1	Affidavit For Death Benefits
BN-INJ-ADV-injuredworker-fs-v1 8/16	Advocate for Injured Workers Factsheet
C-258	Injured Worker's Record of Job Search Efforts/Contacts
C-258.1	Injured Worker's Record of Independent Job Search Efforts
C-3	Claimant's Claim for Compensation (also Online Submission)
C-3.1	Notice of Right to Select A Workers' Compensation Board Authorized Health Care Provider
C-3.3	Limited Release of Health Information (HIPAA)
C-32	Settlement Agreement - Section 32
C-32.1	Settlement Agreement - Section 32 - Claimant Release
C-32-I	Settlement Agreement - Section 32 WCL Indemnity Only Settlement Agreement
C-35	Extreme Hardship Redetermination Request
C-62	Claim for Compensation in a Death Case
DB271-S	Statement of Rights; NYS Disability Benefits
DB-450	Notice and Proof of Claim for Disability Benefits
DB-450.1	Claimant's Statement Regarding No Fault or Personal Injury
WCB-Claimant-QuickGuide-v1 (1-21)	Quick Guide For Injured Workers
INJ-FileAclaim-1-v2 10/17	What to Expect When You File a Claim
INJ-gen-pc1-v1 8-17	Injured Worker Palm Card
LAC-1	Language Access Comment Form
OC-110A	Claimant's Authorization to Disclose Workers' Compensation Records
PFL-DC-119	PFL Formal Request for Reinstatement Regarding PFL
PFL DC-120	PFL Discrimination/Retaliation Complaint

PFL DC-130	Employer’s Response to Paid Family Leave Discrimination/Retaliation Complaint
PFL_Waiver	PFL Waiver
PFL-120	PFL Notice of Compliance; Controlled form; at request.
PFL-271S	PFL Statement of Rights
PFL-32-D	Section 32 Waiver Agreement: Paid Family Leave Discrimination/ Retaliation Claim
RFA-1W	Request for Assistance by Injured Worker
VDF-1	Loss of Wage Earning Capacity, Vocational Data Form
WTC-12	Registration of Participation in World Trade Center Rescue, Recovery and/or Clean-Up Operations

Additionally, the Board issues a “Notice of Interpreter Services” in the top ten languages in approximately 200 system generated decisions, notices and correspondence with the following language:

If you need help reading this important document or interpretation services at your hearing, please call the Workers’ Compensation Board’s toll-free number: **1-877-632-4996**. An interpreter will be provided at no cost to you.

If you feel that the Board has not provided you with adequate interpretation services, please let us know by contacting us using the form found at: **wcb.ny.gov/lac**.

New documents identified for translation after the signing of this Plan and before the 2-year reassessment will be translated in a timely manner.

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

The Board, 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. The Board will also ensure that plain language is used in materials produced before translation to ensure information is accessible to a range of literacy levels. The vendor utilizes glossary technology for consistency and uniformity.



PART 5 – Staff Training

The person in the agency who is responsible for training staff in language access services is:
 Training of staff in language access services is completed by the Associate Director of Training
 1.

The staff training includes the following components:

- ☒ The agency’s legal obligations to provide language access services
- ☒ The agency’s resources for providing language access services
- ☒ How to access and work with interpreters
- ☒ Cultural competence and cultural sensitivity
- ☒ How to obtain translation services
- ☒ Maintaining records of language access services provided to LEP individuals

The methods and frequency of training are as follows:

- Mandated annual online training program via the Statewide Learning Management System for all staff with performance support materials (may include job aids for handling callers while accessing services and sensitivity-building videos, etc.).
- Annual refresher programs will be done to reinforce and build knowledge and skills.
- Periodic reminders from the Language Access Office mailbox.



PART 6 – Monitoring the Plan and Responding to Complaints

A. Monitoring

Our agency’s Language Access Coordinator (“LAC”) will monitor implementation of the Plan to make sure we are in compliance. Our protocols in this regard are as follows:

WCB monitors its document submissions (both overall and by language) to confirm the appropriate documents and languages have been provided timely. The Board also monitors requests for oral translation services and confirms that services have been provided timely. Finally, the Board tracks complaints (both about existing services and missing services) to determine where potential issues exist and take action as appropriate.

B. Complaints

We provide information to the public in at least the top ten most commonly spoken non-English languages in the state, advising members of the public of their right to file a complaint if they feel that they have not been provided adequate language access services or have been denied access to services because of their limited English proficiency. We do not retaliate or take other adverse action because an individual has filed a language access complaint.

We display information on the right to file a complaint, and the procedures for filing 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. The standardized complaint forms, along with the procedures for filing a complaint, are also available in all ten languages in our public offices

upon request. The complaint forms are also available for download or online submission through our website. Additionally, information on the right to file a complaint is posted in the top ten languages on our website and in our offices in areas where it can be easily seen by the public.

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

A dedicated e-mail account and complaint form (LAC-1) has been established to receive complaints directly. All complaints submitted to this account, LanguageAccessCoordinator@wcb.ny.gov, or expressed to Board staff (either online, over the phone, in person or in writing) will be forwarded to the Language Access Coordinator for evaluation, resolution and response as part of our LAC-1 process.

All complaints must be timely forwarded to the Statewide Language Access Coordinator.

PART 7 – Signatures

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[Signature] Acting Executive Director 7/29/21
Head of Agency Title Date

[Signature] Director, Operations & Programs 7/29/21
Agency LAC Title Date

[Signature] Deputy Secretary for Civil Rights 7/30/2021
Deputy Secretary for Civil Rights Date