

# LANGUAGE ACCESS PLAN FOR LEP INDIVIDUALS

**State Agency:** New York State Department of Corrections and Community Supervision

**Effective Date of Plan:** October 5, 2012

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## PART 1 – INTRODUCTION

**Pursuant to Executive Order No. 26 (“Statewide Language Access Policy”), the Department of Corrections and Community Supervision (DOCCS) has set forth herein the actions that will be implemented to ensure that individuals with limited English proficiency (“LEP”) have meaningful access to agency services, programs, and activities.**

### **Statement of Agency Services to the Public:**

The Department of Corrections and Community Supervision provides services and programs to offenders under custody and ex-offenders under community supervision who have been found guilty of various crimes and have been sentenced to serve a term in a NYS correctional facility. Many such offenders require supervision after release. The mission of the Department is to enhance public safety by providing programs, therapeutic treatment and services that will prepare the individual to return to the community and remain free of criminal activities. These programs are provided in a safe and secure environment that facilitates success for the offenders. The Department also provides services and outreach to family members and friends of offenders to ensure a positive reintegration with family and the community. Pursuant to the Executive Order, this plan has been prepared to ensure all Limited English Proficient offenders and ex-offenders, have reasonable access to and are able to fully participate in all programs and services provided. The Department currently translates into Spanish all A & B Directives, all counseling manuals, all orientation handbooks, all notices to the offender population, all forms (including pertinent medical, dental and mental health forms) and applications, all complaint documents and procedures, all standards of offender behavior and disciplinary procedures, signage included in visitor access areas and handbooks for family and visitors. Education programs also provide ESL instruction and testing in Spanish, including the GED® exam. Additionally, oral interpretation services are provided for all due process, health related services, and Parole Board interviews.

**In developing this plan, the Department understands that LEP individuals are persons who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. The Department 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 of Corrections and Community Supervision is: 3,505.

The top seven 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	3,348
Chinese	82
Korean	12
Haitian/Creole	8
Russian	8
Polish	6
Italian	1

We use the following resources to determine the top seven 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:
- Other (describe)

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

There are approximately 93,000 individuals under custody or community supervision. Of that number, approximately 3,505 have been determined to be Limited English Proficient. Contacts with these individuals are ongoing and daily, and include contacts with family members and friends as well.

**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?** Through direct contact with Offender Rehabilitation Coordinators, security staff, academic and vocational staff, other program services staff, health services, mental health services staff, and community supervision staff.

- 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?** The top seven languages in Part 2 of this plan.

- Local, non-English language media directed at LEP individuals in their languages

- Telephonic voice menu providing information in non-English languages

In which languages:

- Other (describe) Offender orientation programs at reception and general confinement facilities.

**PART 4 – PROVISION OF LANGUAGE ASSISTANCE SERVICES**

The Department utilizes 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 make those determinations based on experience, with the assistance of bilingual staff members where available

Other (describe) Staff determines language ability through an oral interview process in reception centers. Language dominance is determined to be English, Spanish, other language or bilingual/no preference based on questions to determine primary language spoken. Once language dominance is determined, those who speak Spanish or other languages are evaluated for English oral proficiency.

Departmental Directive #4804 entitled "Academic Education Policies" outlines the policy and procedures for identifying language dominance, English proficiency, and tracking progress. Additionally, information is collected regarding country of origin and primary language spoken.

**The Department utilizes 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 make those determinations based on experience, with the assistance of bilingual staff members where available

Telephonic interpreting service

Other (describe) Academic assessment as described in previous section. LEP services are based on the English oral proficiency level.

**The Department records and maintains documentation of each LEP individual's language assistance needs as follows:**

Through DOCCS's mainframe computer system and academic testing.

#### **A. Oral Interpreting Services**

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

**For in-person encounters:** At intake (or other initial contact), a staff member will evaluate for language dominance, which includes filling out a questionnaire and identifying the country of origin.

**By telephone:** Our office does not generally have encounters with LEP individuals by telephone. When such contact does occur, staff will follow the same procedures in determining language and need for interpreter.

**At initial contact in the field:** At intake (or other initial contact), a staff member will evaluate for language dominance, which includes filling out a questionnaire and identifying the country of origin.

**For pre-planned appointments with LEP individuals:** Generally, at this point, staff has already determined language dominance of LEP individual and arrangements have been made to provide for an interpreter.

**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:** Through the use of signs posted in public areas or after a staff member has made a determination of need and an interpreter is contacted, the staff member through the interpreter will inform the LEP individual that the interpreting services are free of charge.

**By telephone:** Generally, contact with LEP individuals does not occur over the phone, but when it does the staff member through the interpreter will inform the LEP individual that the interpreting services are free of charge.

**At initial contact in the field:** At intake and after an interpreter has been contacted, the staff member will inform the LEP individual that the interpreting services are free of charge.

**For pre-planned appointments with LEP individuals:** Staff has already informed the LEP individual that the interpreting services are free of charge when the appointment was made. In the event that this was not done, the staff member through the interpreter will inform the LEP individual that the interpreting services are free of charge.

**Other (describe):** DOCCS will post multi-lingual signs in common and public areas informing both offenders and members of the community that services will be provided free of charge.

**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:**

DOCCS's staff responds immediately when encountering LEP individuals in need of interpretation by contacting an interpreting service provider in a timely manner.

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

DOCCS will track interpreting services provided through the system used by the independent interpreting services and our budget office.

**Competency and Confidentiality**

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

On a case-by case-basis, NYS DOCCS uses multilingual staff volunteers who are self-assessed in their own language competency. Where NYS DOCCS utilizes independent interpreting services, that vendor will implement quality assurance standards to guarantee that its interpreters are trained and are linguistically and culturally competent.

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

NYS DOCCS's employees receive annual mandatory training on HIPAA. All DOCCS's staff follows HIPAA requirements when the matter relates to health issues. When NYS DOCCS utilizes interpreter staff from the NYS OGS contract, they too, are bound by the same HIPAA requirements. The Department will also train staff, contractors, and others regarding other non-HIPAA related confidential information. DOCCS will ensure that existing confidentiality guidelines are strictly adhered to by staff, contractors, and others.

The training provided to staff will address the importance of confidentiality. Furthermore, independent interpreters will enforce standards of confidentiality in accordance with NYS Law.

**Maintaining a list of oral interpreting resources**

**DOCCS uses, or has available for oral interpreting, the following resources:**

- Bilingual staff members who work directly with LEP individuals

**Number of staff and languages spoken:** DOCCS employs Spanish-speaking staff, certified by the NYS Department of Civil Service in the following positions: Administrative Aide (1), ASAT Program Assistant (1), Calculations Clerk (1), Clerk II (1), Correction Officer (82), Offender Rehabilitation Coordinator ASAT (3), Offender Rehabilitation Coordinator (38), Offender Rehabilitation Coordinator Trainee (1), Parole Officer (60), Teacher II (1), Teacher IV (1). Additionally, DOCCS employs two full time translators. This is a snapshot of the Department's current capability in the provision of language assistance.

Bilingual staff members who provide oral interpreting when necessary

**Number of staff and languages spoken:** Same as above

Telephonic interpreting service

**Names of vendors:** Network OMNI; Geneva Worldwide, Inc.; the Trustforte Corporation d/b/a Trustfort Language Services; SOS International, Ltd.; Language Services Associates, Inc.; Languages R Us; Legal Interpreting Services; and Language Line Services, Inc.

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

**Names of individuals/organizations and languages:**

Other (describe)

**The Department'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:**

DOCCS's orientation policy includes mandatory training in Departmental policies and procedures, including how to access interpreting services. During the facilities' orientation process, each new

employee will be familiarized with all Departmental areas, including the Business Office, which handles all transactions like those for interpreting services.

### **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:**

DOCCS will establish a methodology to determine which new documents and updates to existing documents are vital. This methodology will include criteria such as nature of services to be provided, frequency of services, importance of services, and relevance of services to institutional needs and benefits to offenders or the public. This will be done every two years or more as necessary.

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

All documents in Spanish are submitted to the Director of Education and given to the two in-house translators for timely translation. Similar provisions will be made available to other languages submitted. Priority is given to time sensitive materials, such as appeals of disciplinary hearings. The Department will institute the necessary steps to follow the same procedure for documents submitted in one of the other top six languages.

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

Prior to submitting documents for translation, all documents are reviewed against a “readability chart” to ensure that at least readers at a 4<sup>th</sup> or 5<sup>th</sup> grade reading level can comprehend the content of the document.

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

All documents as indicated are translated into Spanish. Any documents determined to be vital will be translated into the remaining top 6 languages.

These documents include, but are not limited to: requests for Departmental records such as FOIL requests, requests for reasonable accommodations, forms for reporting lost/issued items, PREA information and complaints, grievance forms, facility safety and emergency procedures, requests for religious goods and services, forms regarding visitations, requests to use the Law Library, applications to participate in the Family Reunion Program, Media (interview) Consent forms, Media Review notices, Merit Time and Presumptive Release forms, Limited Credit Time Allowance applications, Standards of Offender Behavior and Allowances, Temporary Release Program forms, and Community Supervision forms and notices.

**The process for ensuring that translations are accurate and incorporate commonly used words is as follows: (Note: The Office of the Deputy Secretary for Civil Rights will maintain a list of commonly used words.)**

All literal translations and vital documents are reviewed by the Director of Education after work is completed by the translators. Furthermore, the Department through its vendor 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 Department 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 Department utilizes or has available for translating, the following resources:**

Contracts with language service vendors

**Names of vendors:** Network OMNI; Geneva Worldwide, Inc.; The Trustforte Corporation d/b/a Trustforte Language Services; SOS International, Ltd.; Language Services Associates, Inc.; Languages R Us; Legal Interpreting Services; and Language Line Services, Inc.

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) Two Spanish-speaking translators are employed by DOCCS and in accordance with Directive #4490, Hispanic and Cultural Services, provide all official Spanish/English and English/Spanish translations. Additionally, staff can find resources in other languages.

**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:** Director of the Training Academy in coordination with the LAC.

**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:**

DOCCS will produce a training video for all staff that presents basic concepts of LEP provisions on an annual basis. New employee orientation will be provided for civilian and uniform staff as well as annual updates. DOCCS's Training Academy staff is responsible for all Departmental training.

## **PART 6 – ADMINISTRATION**

### **Monitoring**

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

The LAC will ensure that signs are prominently displayed in public areas advising LEP individuals of the availability of free language services. The LAC, along with other assigned staff, will review existing documents for updates and new documents to determine if they are vital and must be translated.

Computer generated reports will be used to track LEP individuals and requests for interpreting services.

### **Complaints**

The Department provides 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 DOCCS provides describes how and/or where to file a complaint. The Department does not retaliate or take other adverse actions because an individual has filed a complaint alleging discrimination based on LEP status or needs.

The Department displays information on the right to file a complaint, and the procedures to file a complaint, in the following manner:

The standardized complaint forms will be available to the public upon request in all 7 languages. Information on the right to file a complaint will be posted in areas where it is easily seen by the public in the top 7 languages. Furthermore, Departmental Directives govern the handling of complaints for offenders, employees, and visitors.

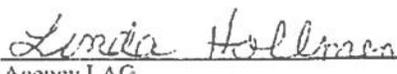
- Directive #4040, "Inmate Grievance Program"
- Directive #2602, "Diversity Management Complaints"
- Directive #2611, "Discriminatory Treatment Complaints – Procedures for Visitors"

The Department handles complaints made to the agency regarding the provision of language assistance services in the following manner:

Complaints will be sent to the Office of Diversity Management, Grievance Process and the LAC for review and proper resolution. DOCCS will utilize a standardized complaint form provided by the Governor's Office and establish an electronic system to track specific complaints regarding LEP/Language Access matters.

PART 7 - SIGNATURES

  
Head of Agency      Commissioner      8/29/12  
Title      Date

  
Agency LAC      Director of Education      8/29/12  
Title      Date

  
Deputy Secretary for Civil Rights      9/17/12  
Date