

LANGUAGE ACCESS PLAN FOR LEP INDIVIDUALS

State Agency: New York State Commission on Quality of Care and Advocacy for Persons with Disabilities

Effective Date of Plan: October 5, 2012

Language Access Coordinator (LAC): Gregory K. Jones, Associate Counsel

LAC Phone / E-mail: (518) 388-0691 / greg.jones@cqc.ny.gov

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:

The NYS Commission on Quality of Care and Advocacy for Persons with Disabilities (the “Commission”) acts as an oversight and investigative entity whose functions and responsibilities are set forth in NYS Mental Hygiene Law Article 45. These include investigation of complaints of patients, residents and employees of mental hygiene facilities, including allegations of patient death, abuse or mistreatment. The Commission also provides independent oversight of those charged with caring for patients and the quality and cost-effectiveness of such care, among other things.

The Commission serves people with mental, developmental, physical, and sensory disabilities by providing *independent* oversight of the quality and cost-effectiveness of services provided to these individuals. It also serves as an advocate by promoting public policies that address the needs and advance the rights of all persons with disabilities in New York State.

The Commission presently serves as the State's Protection and Advocacy agency, administering eight federal programs which provide legal and other advocacy services to persons with disabilities to assist them in obtaining the services and protections of federal and state laws. The Commission is assisted by a 19-member Advisory Council and the Mental Hygiene Medical Review Board.

In its role as an advocate, the Commission provides training and technical assistance for individuals with all types of disabilities, including:

- Providing legal and other protection, and advocacy services for people with disabilities;
- Providing access to assistive technology devices, loans and demonstrations;
- Authorizing medical care through volunteer Surrogate Decision-Making Committee panels;
- Training, supporting and empowering people with disabilities in exercising their civil rights; and
- Administering the Interagency Coordinating Council for Services to Persons who are Deaf, Deaf- Blind, or Hard of Hearing.

The types of services the Commission provides that involve direct interaction with the public include: handling calls to our toll-free intake/information and referral line; responses to email and traditional mail inquiries; postings on our agency's website; conducting investigations related to allegations of abuse, neglect or fiscal impropriety; provision of short term direct advocacy assistance to people with disabilities and/or their families; conducting presentations and training on a number of issues of concern to people with disabilities, their families, service providers and advocates; convening panels of pre-screened, trained appointed members to make medical decisions on behalf of individuals unable to do so themselves who also do not have family members or guardians; and conducting outreach activities with various groups throughout the State to make the public aware of the agency's services.

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 at least every two years starting from the effective date of this plan, but may do so sooner if a need to do so is demonstrated.

PART 2 – ASSESSING LEP POPULATION LANGUAGE NEEDS

The estimated total number of individuals in our service area is:

Based on U.S. Census data for the year 2000, there are approximately 14,302,265 New Yorkers over the age of 18. Of this figure approximately 4,000,000 speak a language other than English. Given the nature of the functions performed by the Commission, the individuals that may interact with the Commission at any given time is almost exclusively over the age of 18 and could reside anywhere in the State. The table below represents the combined percentage of individuals over 18, who either speak no English, or do not speak English well, according to the aforementioned Census data.

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	1,875,900 (31% of which do not speak English well)
Chinese	571,000 (45% of which do not speak English well)
Korean	85,600 (40% of which do not speak English well)
Haitian Creole	152,500 (9% of which do not speak English well)
Russian	187,000 (36% of which do not speak English well)
Italian	273,500 (13.5% of which do not speak English well)

*American Sign Language expenditures for period 10/01/10-9/30/11 totaled \$10,600.00. Although Executive Order 26 does not mention the provision of sign language interpreters, due to the unique nature of the Commission's operations, meeting the language access needs of individuals who are deaf is essential. Individuals who are deaf, but use sign language derived from another spoken language like Spanish or Russian would be covered by the Executive Order.

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:

- Other (describe)

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

Most frequently, the initial contact with the Commission occurs through its toll-free telephone Intake line (7695 calls were logged in 2010). The Commission's other points of access are through its webmaster, United States Mail, or in person through our on-site reception area, or by attendees of Commission sponsored/conducted presentations or trainings. In the past year, we have had very limited contacts from non-English speaking or writing individuals.

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

We inform LEP individuals, in the languages set forth above, about their right to free language assistance services by using the following measures:

- LEP individuals are informed directly by our staff

In what ways? In calendar year 2011, the Commission had no contact with any LEP individuals through our website, mail, or presentations. If an LEP individual makes a call through a surrogate, Intake staff advises that we provide free language access services, and ascertains what language the individual speaks and connects the person with the appropriate interpreter.

- 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 Office of Communications employs both traditional and innovative methods of conducting outreach regarding the right to free language access to members of the public who have limited English capacity. The Commission is in the process of exploring innovative options for providing a voice menu or some other method to more readily identify language access needs of LEP individuals. This process is somewhat complicated by the fact that many of the callers to our Intake line have developmental and/or psychiatric disabilities and reside in state licensed or operated residential facilities. As a result, many have trouble understanding message prompts, and thereby require expedited personal contact.
- Local, non-English language media directed at LEP individuals in their languages
- Telephonic voice menu providing information in non-English languages

In which languages: at a minimum it would include those contained in the chart in Part 2.
- 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 make those determinations based on experience, with the assistance of bilingual staff members where available
- Other (describe) Although not required to do so pursuant to Executive Order 26, it should be noted, that due to the nature of the Commission's work, the largest number of interpreters used by the Commission are American Sign Language Interpreters for in-person meetings with individuals who are deaf. Individuals who use sign language other than American Sign Language will be provided with a sign language interpreter conversant in such language, if possible.

In conjunction with its activities related to the Technology Related Assistance for Individuals with Disabilities (TRAID) Program (a federally funded program related to assistive technology for persons with disabilities), the Commission monitors advancements in assistive technology (such as voice recognition software applications) that might also be helpful in meeting the language access needs of individuals with limited English proficiency.

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 make 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:

As part of its Language Access Plan, the Commission employs a variety of measures to determine an individual's primary language, including the "Language Identification Tool" poster developed by the Governor's Office, and/or other similar posters and wallet cards.

At present, staff that interact with LEP individuals through our oversight, investigative or advocacy activities document the language access needs in individual files created by the staff member. In addition, notations are made in our Intake Database.

A. Oral Interpreting Services

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

For in-person encounters: We currently employ simple techniques, such as posters and wallet cards to assess the needs of individuals with limited English proficiency. If the individual indicates that he/she speaks a language not appearing on the poster or wallet card, a determination is made by accessing "Interpretalk" (or another OGS approved vendor offering similar services) through the use of phone lines located in one of several conference rooms in close proximity to the reception area.

Although not required to do so pursuant to Executive Order 26, it should be noted, that due to the nature of the Commission's work, the largest number of interpreters used by the Commission, are American Sign Language Interpreters for in-person meetings with individuals who are deaf. Individuals who use sign language other than American Sign Language will be provided sign language interpreters conversant in such language, if reasonably possible.

By telephone: Our telephone Intake line captures almost all initial calls coming to the agency. Most LEP individuals are Spanish-speaking and we have one Spanish-speaking individual who, along with another individual, works the Commission's Intake line full-time. There are three other Spanish-speaking staff available to assist callers in isolated instances, or in a crisis. If an LEP individual makes a call through a surrogate, Intake staff ascertains what language the individual speaks.

In cases where our Intake specialists are unable to immediately ascertain the language spoken, they attempt to do so through "Interpretalk" (or another OGS approved vendor offering similar services). Phone contacts from individuals who are deaf are made through the New York State Relay Service or agency staff can handle the call by using a TTY device.

At initial contact in the field: If it is apparent there may be a language access issue, the staff will determine the individual(s) language needs and the services of a qualified interpreter will be secured before the conversation/interview transpires.

For pre-planned appointments with LEP individuals: An individual's language access needs are determined in the pre-planning of such appointments. Staff makes a request for interpreter services through our Administrative Office.

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: LEP individuals are advised that interpreter services will be provided free of charge at the same time the assessment of need is conducted.

By telephone: Callers are advised that interpreter services will be provided free of charge at the same time the assessment of need is conducted. Callers who are deaf are directed to use the New York State Relay Operator, or staff can handle the call directly by using a Teletypewriter (TTY) device.

At initial contact in the field: Same as above.

For pre-planned appointments with LEP individuals: Same as above.

Other (describe):

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:

Our Intake line specialists immediately contact "Interpretalk" (or another OGS approved vendor offering similar services) to obtain an immediate response. When that is not possible, we re-contact the individual by phone using caller ID to call the number where the call originated from, to arrange services.

When interpreter services are needed for in person interviews, staff notify their supervisor of the need and the supervisor then files a request with our Administrative Office to make necessary arrangements. If and when the need arises, these requests are handled on an expedited basis.

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

At present staff who interact with LEP individuals through our oversight, investigative or advocacy activities keep a record of it in individual files created by the staff member. Our Administrative Office maintains a complete record of interpreter services provided to individuals.

Competency and confidentiality

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

Three of our four in-house Spanish-speaking staff, are native Spanish speakers. All bilingual staff who may serve as interpreters will be required to receive training on cultural competency and issues related thereto. Where the Commission 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:

As previously stated, the nature of the operations of the agency is such that confidentiality is required. Furthermore, independent interpreters will enforce standards of confidentiality in accordance with New York State Law. In situations where this may not be possible we have providers sign confidentiality agreements.

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: The Commission has one culturally competent Spanish-speaking staff member to provide interpreter services for Spanish-speaking individuals accessing the Commission's Intake line.

- Bilingual staff members who provide oral interpreting when necessary

Number of staff and languages spoken: The Commission currently has four culturally competent Spanish-speaking staff members that provide interpreter services for Spanish-speaking individuals. One staff member works the Commission's Intake line full-time, and three others are available to assist in isolated instances or in a crisis.

- Telephonic interpreting service

Names of vendors: Language Services Associates, Inc. (Interpretalk)
607 N. Easton Road
Building C
Willow Grove, PA 19090

- 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:

Supervisors and staff making first contact with the public are provided instruction regarding language access requirements and the process for submission of requests by member (s) of the Language Access Committee.

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:

The Office of Communications working in cooperation with the LEP Coordinator will review any and all new forms, brochures, and web content (including forms) to determine, and will review all forms and website information to determine what information will be considered “vital”.

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

Any document received by the Commission from an LEP individual in their primary language, will be immediately forwarded to our Director of Communications who will log the communication and forward it to an OGS approved vendor for translation. If an acknowledgment or other action is required, appropriate staff will craft a response and forward it to the Director of Communications to be translated into the individual’s primary language.

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

All documents will be reviewed by the Commission’s Office of Communications for the purpose of assuring that such document is written in plain language prior to translation.

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

The Commission will undertake the translation of all vital webpages (including forms) to the languages indicated in Part 2 of this Plan within a reasonable time after this Plan becomes effective. In the meantime, all website pages, including forms, are linked to “Google Translate” (in 54 languages), with appropriate disclaimers, as we understand that “Google Translate” is not appropriate means of translation.

Although it is the intent of the agency to have all forms translated into the languages identified in Part 2, the most vital form, addressing a key component of the core mission of the Commission, is the Abuse and /or Treatment Complaint form. Other “non-vital” but important forms available through the Commission’s website are:

Freedom of Information Law;

Guardianship Forms;

Suspected Fiscal Fraud or Abuse Form;

Protection and Advocacy for Developmental Disabilities (PADD)
Consumer satisfaction Survey;

PADD Priorities Response Form;

Protection and Advocacy for Traumatic Brain Injury Consumer satisfaction Survey;

CQC-100 Form fillable on line (directions), or print blank form;

Surrogate and Decision Making Committee Case (SDMC) Filing Forms;

SDMC Prospective Member Form; and

TRAID-In (Equipment Related Disability) Equipment Exchange Program.

The Abuse and/or Treatment Complaint form, as well as the TRAID-In, SDMC, and CQC-100 forms have been submitted for translation into the languages set forth in the chart in Part 2, and will be posted on the website. The Freedom of Information, and the Suspected Fiscal Fraud or Abuse Form will also be translated and posted on the website. Some of the above forms are used in other agencies or are from other sources. For instance, the Guardianship forms referenced above are from the Surrogate's Court within the New York State Unified Court System. The Commission will provide links (identified in the languages set forth in the chart on page 2) to forms that have already been translated and appear on other agency websites.

The Commission is currently in discussions regarding whether or not it will continue to conduct the activities associated with the remaining forms appearing on its website, and it is expected that a decision in this regard will be made in the next few months. If the Commission continues to conduct these activities, the forms related thereto will be immediately submitted for translation.

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.)

The Commission 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 Commission 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 vendor resources:

Contracts with language service vendors

Names of vendors: Language Services Associates, (Interpretalk)

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:

Members of the Language Access Committee:

- Rosemary Lamb, Deputy Director, Division of Advocacy;
- David DeMott, Deputy Director, Administration;
- Debra Johnson, Quality Care Facility Review Specialist II (Intake; also serves as the agency's AAO);
- Bryan Jackson, Director of Communications;
- Greg Jones, Associate Counsel and LAC;
- Layna Maher, Trainer, Division of Advocacy and
- Others as advisable.

The staff training will include 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:

All new employees, as part of their orientation, are advised of the agency's Language Access Policies and Procedures, and it is anticipated that all staff will be offered updated training every two years.

PART 6 – ADMINISTRATION

Monitoring

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

The LAC will periodically monitor the agency's website, brochures and forms to assure compliance, and will periodically meet with other members of the Language Access Committee to assure that the Commission's Implementation Time Table is met.

Complaints

We provide information to the public, including LEP individuals in the languages regularly encountered in this service area, advising them of their 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 any other adverse action because an individual has filed a complaint alleging discrimination based on LEP status or needs.

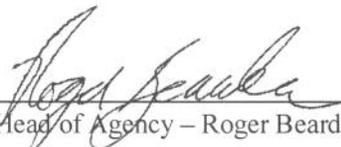
We will display information on the right to file a complaint, and the procedures to file a complaint, in the following manner:

Information concerning the right to file a complaint and procedures will be posted in public areas and on the agency's website. This information and the complaint form will be made available in the languages appearing in the chart in Part 2.

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

All complaints will be handled expeditiously by the Language Access Committee.

PART 7 – SIGNATURES

	Chair	9/11/2012
Head of Agency – Roger Bearden	Title	Date

	Associate Counsel	9/11/2012
Agency LAC – Greg Jones	Title	Date

		9/17/12
Deputy Secretary for Civil Rights		Date