

LANGUAGE ACCESS PLAN FOR LEP INDIVIDUALS

State Agency: New York State Division of Human Rights
Effective Date of Plan: October 5, 2012
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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:

The New York State Division of Human Rights (“Division”) provides individuals in New York the opportunity to file complaints of discrimination in employment, housing, credit and places of public accommodations pursuant to the provisions of the New York State Human Rights Law. The Division is the State’s Civil Rights Law enforcement agency. If after an investigation the Division concludes there is reason to believe State Human Rights Laws were violated, the complaint will be prosecuted and parties afforded the opportunity to have a hearing before an administrative law judge.

In developing this plan, we have understood persons with limited English proficiency 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: 2,458,000.¹

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

¹ See “LEP Data Brief” (December 2011), Migration Policy Institute (Table 1 & Table 2). New York State’s LEP resident population is estimated to be 2,458,000 (out of a total state population of 18, 241,000) based upon tabulations from the United States Census Bureau 2010 American Community Survey, Table B16001 “Language Spoken at Home by Ability to Speak English for the Population 5 years and Over”. See also “Fact Finder”: <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml>

Language	Estimated number of LEP Individuals in New York State who speak this language
Spanish	1,227,970 ²
Chinese	300,362
Korean	58,141
Haitian-Creole	53,124
Italian	51,070
Russian	50,275

As the State's civil rights agency, parties who are within the agency's service jurisdiction include all residents of New York and visitors (e.g. tourists, business people).

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 contacts³
- School System data
- Information from community organizations that serve LEP individuals.

Names of organizations:

- **NY Immigration Coalition**
(<http://www.thenvic.org/>)
- **Migration Policy Institute**(<http://www.migrationpolicy.org/>)
- **Asian American Federation**(<http://www.aafny.org/>)
- **Empire Justice Center –Language Access Resource Center**

² The estimated number of LEP individuals in New York State is taken from "country of birth" statistics & the percentages of those populations that speak English "less than very well". See 2006-2008 American Community Survey (released 4/2010). The actual number of LEP individuals may be different.

³ The Division has 10 regional offices located in Buffalo, Albany, Rochester, Syracuse, Binghamton, Peekskill, Harlem/Upper Manhattan, Brooklyn, Hempstead and Hauppauge. The Central Office is in the Bronx. There are pockets of smaller immigrant populations in some of these regions (e.g. Buffalo's Ethiopian community).

(http://onlineresources.wnyc.net/pb/oredoes/language_access.asp)

✓ Information from other government agencies

Names of agencies:

- **New York City Department of City Planning**
(<http://www.nyc.gov/html/dep/html/census/popdiv.shtml>)
- **New York City Office of Immigrant Affairs**
(<http://www.nyc.gov/html/imm/html/home/home.shtml>)
- **New York State Office of Temporary and Disability Assistance** (<http://otda.ny.gov/>)
- **New York State Department of Labor**
(<http://labor.ny.gov>)

Other (describe)

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

We document telephone calls, in-person visits and the number of interpreter requests as well as request information from the telephone interpretation vendors.⁴ When an individual who is a party in a complaint is identified as requiring language assistance, the Division employee assigned to the case inputs the information about the language needs in the agency's case management system.⁵ Frequency of contact with the individual can be tracked as the case moves along from investigation to conclusion.

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

⁴ Language Line Services and Language Service Associates.

⁵ The system has a box marked "Special Needs". By marking this box, all subsequent employees who are assigned to the case and/or who are tasked with communicating with the individual are charged with checking the "Special Needs" box to see if language services are required.

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? All Division employees have received training on how to access an interpreter using the telephone. For LEP individuals that speak Spanish, Spanish Language staff⁶ are responsible for communicating with the individual and informing her/him that free language assistance is available. When no Spanish language Division staff are available or when the foreign language spoken is not Spanish, Division employees are authorized to access telephone interpretation services. Each office has designated an area in the office where a confidential conversation with Division staff can be conducted. These areas are equipped with speaker telephones, which enable employees to access interpreters using private vendors.

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? Hispanic, Chinese, Russian, Haitian, Italian and Korean communities as well as immigrant communities that speak Polish, French and Arabic.

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

Telephonic voice menu providing information in non-English languages

In which languages: The Division's toll-free number has a voice mail in English and Spanish. During working hours, the telephone is answered by bilingual staff. After

⁶ The Division has a number of bilingual employees with their language specialization added to their Civil Service title. These individuals are tested for basic language competency. The agency has approximately 20 such employees: 19 are bilingual Spanish and 1 is bilingual Chinese/Mandarin.

hours, the voice mail is activated, and calls left in Spanish are followed up the next day by Spanish language staff.

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) Language Line Services (conference call/speaker phone) – usually for languages other than Spanish.

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:

Individual parties identified as LEP are flagged in the Division's Case Management System (CMS). The Division's Language Access Coordinator and the Language Access Working Group have oversight over the documentation of LEP language assistance within the Division.

A. Oral Interpreting Services

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

For in-person encounters: How to communicate and interact with LEP individuals is an important part of the Division's ongoing training of staff. Issues with language communication may or may not be apparent to the Division employee from an initial brief conversation. In order to make that assessment we have the following protocols in place:

For Spanish-speaking individuals- Many of the Division's offices have bilingual Spanish staff who are either at the reception area or physically nearby. These individuals are assigned to speak with Spanish-speaking visitors requesting language assistance. In offices with no Spanish-speaking staff (or when a Spanish-speaking employee is not available), telephone interpretation services are used in areas designated for these purposes.

Our protocol is to ask the LEP individuals: "Do you speak Spanish?" and "Do you want to speak with someone who speaks Spanish?" We also have "Interpretation Services Available" placards which have the following statement in Spanish (and 19 other languages): "Point to your language. An interpreter will be called. The interpreter is provided at no cost to you." ("¿Habla Español?").

For Guests speaking other languages- If the visitor is speaking a language other than Spanish or the Division employee cannot determine the language spoken, the first task is to identify which language is being spoken and communicate to the visitor that interpretation services are available. The Division employee can show the "Interpretation Services Available" placard which has the following statement in 20 languages: "Point to your language. An interpreter will be called. The interpreter is provided at no cost to you." Once the language is identified, the Division employee will take the visitor to an area designated for accessing the interpreter using the telephone. All Division staff have been trained on how to access these services.

By telephone: The Division receptionist is a Spanish bilingual employee.⁷ All telephone calls from Spanish-speaking callers are answered by her and, if necessary, re-directed to appropriate bilingual Spanish language staff. The Language Line Telephone Service is used in all other situations or in those offices which do not have Spanish bilingual staff.

At initial contact in the field: All investigators and those employees who need to access Language Line interpreters in the field can do so using their personal access codes and the Division code. Any telephone can be used for these purposes if it is equipped with conference call features and a speaker.

For pre-planned appointments with LEP individuals: Spanish language ("SL") staff or Language Line interpreters are available to communicate this information to the LEP

⁷ Whenever we refer to "Spanish language" Division staff, the reference is to bilingual Spanish employees who have been tested for basic Spanish language skills and have a language designation added to their regular Civil Service title. Our short-hand designation is "SL" for Spanish language and "CL" for Chinese language.

individual, and all office reception areas also display placards which convey the information about free language services.

The Division employee asks the individual if s(he) would feel more comfortable communicating in her/his native language. If the individual answers in the affirmative, the Division employee enters information about the language services needed in the "Special Needs" box of the Division's computerized CMS – the agency's case tracking system. An "LEP" label is also placed on the file folder to alert any Division employee handling the case file that language services need to be provided when communicating with the individual.

All staff have the responsibility to check both the CMS and the folder so that language services are arranged prior to a pre-planned appointment. LEP individuals are not always identified in the initial phases for any number of reasons. Once a Division employee becomes aware that language services are required, that employee has the responsibility to enter that LEP information in the CMS and on the folder and make appropriate arrangements for interpretation or translation.

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: Information about free interpreting services is displayed in the public reception areas of the Division's offices (posters and/or placards). In addition, as soon as the need is identified, LEP individuals are informed of free language services at the earliest point of contact with Division staff, usually by the Division receptionists. The most recent training of staff took place in December 2011.

By telephone: The information is conveyed by receptionists answering the Division's telephones.

At initial contact in the field: This information is conveyed by any Division staff in the field who needs to communicate with an LEP individual.

For pre-planned appointments with LEP individuals: In most instances, the CMS and the case folder should alert the Division staff that language services are required in order for her/him to communicate with the LEP individual for a meeting (either by telephone or in person). In those instances where the need for language services has not been entered in the "Special Needs" box of the CMS or on the case folder, Division employees are responsible for making arrangements for interpretation or translation services as soon as the need becomes apparent.

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:

- 1) Spanish-speaking LEP individuals are by far the greatest percentage of LEP individuals using the Division's services. Our Central Office Receptionist is bilingual Spanish speaker and refers all Spanish speaking LEP individuals to Division Spanish bilingual "SL" staff, once the individual indicates that he/she prefers to speak in Spanish.
- 2) Many of our Regional Offices have one or more Spanish bilingual "SL" Civil Service employees. These employees are expected to provide interpreter services.
- 3) In those offices without such staff or if the bilingual staff is unavailable to interpret, staff can access Language Line Services, and specific areas and telephones are designated for these purposes.
- 4) For lengthier interviews, such as fact-finding or two-party conference, we make arrangements for in-person interpretation (using the Division's Spanish bilingual designated Civil Service employees or professional interpreters provided by the Office of General Services (OGS) language vendors). Division employees may also use the Language Line if this appears to be a good alternative.

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

The Language Access Coordinator's office maintains a log of contracted oral interpreting services provided to LEP individuals. In addition, calls made using Language Line Services requires the entry of a personal code. This enables the DHR to capture data on language use.

Competency and confidentiality

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

The Division has bilingual language designated Civil Service staff. As a group, these employees will work with the Division's Language Access Working Group to develop a training curriculum addressing linguistic issues and cultural competency. This component will be added to the Division's LEP training program in 2012.

Where an agency 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:

All telephone interpreters provided by Language Line Services have been trained on the issues of confidentiality and assuring confidentiality is part of the terms of the contract. The importance of confidentiality with respect to the use of interpreters, including bilingual Spanish Civil Service designated employees at the Division, is included in the LEP training program in 2012.

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

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: Approximately 20 Spanish bilingual staff members (three at Central and 17 in regional offices) and one Mandarin-Chinese bilingual staff member (regional office).

- ✓ Bilingual staff members who provide oral interpreting when necessary

Number of staff and languages spoken: The Division has created a chart of volunteer staff speaking several other languages including Chinese (Cantonese), Chinese (Mandarin), and Russian. However, these staff members are not relied upon except in exigent circumstances. None of these staff are required to offer their language services. Service, when provided, is of a voluntary nature.

- Telephonic interpreting service

Names of vendors: Language Line Services (Agency-wide) and Language Services Associates (Hearings Unit).

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

Names of individuals/organizations and languages: We have no formal relations with community organizations for oral interpretation services. However, for community civil rights programs where we anticipate attendance by LEP individuals, we have worked closely with community groups to ascertain interpretation demands.

- 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: Training on Language Line & follow up with e-bulletins.

All Division staff are informed about how to obtain oral interpreting services. The Division completed "phase 1" of an Executive Order No. 26, Statewide Language Access Policy, training course in December 2011. The training was mandatory for all Division staff and included three in-person sessions for staff at the Central and two Regional Offices (Peekskill & Upper Manhattan). The remaining Regional Offices were offered four training sessions. Follow-up information is communicated via periodic agency e-mail bulletins and the distribution of hard-copy materials to the Regional Offices. The second phase of training will begin before the end of 2012.

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:

In 2010, a "Vital Document Working Group" consisting of Division professionals familiar with the law enforcement processes of the agency identified 15 form letters and other documents as "vital documents." These documents were translated into nine languages: Spanish, Russian, Chinese, Haitian-Creole, Italian, Korean, Arabic, Polish and French. They are posted and available for use on the Division's website. This includes the Division's complaint form. Periodically, and at least once a year, the Language Access Working Group reviews requests from the "Vital Document Working Group" as well as from others in the Division. A determination is made as to how best to provide this information to LEP individuals. In some instances, the Division will decide to translate several additional documents. However, we are also exploring translating a single document into at least the six major languages and inserting this document into all communication sent by the Division to LEP individuals. This one-page translated document would advise the LEP individual s(he) can have someone at the Division explain the essential message of the non-vital, but important documents, by telephone (and assisted by the telephone interpreter).

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

Documents submitted in Spanish are normally translated by Spanish bilingual designated Civil Service employees in their offices or units. In all other instances (or where internal staff are not available), requests for translation are sent, along with the document, to the Language Access Coordinator. We have created a log to track each request, and the translation is undertaken either by Division staff or an OGS contractor. Usually we can turn around most documents in a few days, but sometimes it takes two weeks. With documents in Spanish, where the length of the document is more than two pages, the Language Access Working Group will review the document to determine the best way to address the matter.

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

The Division's External Relations Unit overseen by the Deputy Commissioner for External Relations reviews all Division materials to ensure that they are written in plain language.

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

Brochures are translated into nine languages (Spanish, Russian, Haitian-Creole, Chinese, Italian, Korean, French, Arabic and Polish) plus the Division's poster is translated into 14 additional languages.⁸ These documents are posted on the Division's website: www.dhr.ny.gov

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 Division requested that its OGS translation vendors create a Division "Lexicon" of commonly used phrases and terms to ensure standardization of terms. In 2010, the Division contracted with three vendors: two of those (Trustforte & Language Services Associates) were assigned the task of translating the Division's brochures and vital documents. The third vendor was assigned to proof read the translations obtained.

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

Contracts with language service vendors

Names of vendors: The Division used two New York State Office of General Services (OGS) contractors (Language Services Associates and Trustforte) to undertake a major translation project in 2010. It retained Erickson Translations, a well-known New York City translation company, to proof the quality of the OGS contractors.

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

Two senior staff members serve on the Division's "Language Access Working Group" and help oversee the implementation of the Language Access Plan. They review Spanish translations, occasionally translate official written documents and actively participate as trainers supervising the Division's LEP/LAP training program. Both are fully bilingual and biliterate in Spanish with experience in language training, ethnic media, teaching and translation.

Oral translations of written documents by other individuals or community organizations

⁸ Thai, Urdu, Japanese, Bengali, Hindi, Lao, Punjabi, Vietnamese, Bosnian, Hebrew, Albanian, Greek, Portuguese & Somali.

- ✓ Other (describe) The Division has a diverse work force, including many employees who are bilingual and biliterate in Spanish, Russian, Chinese-Mandarin, Chinese-Taiwanese, Chinese-Cantonese and other languages. The Division taps these resources when needed in exigent circumstances, and only if these employees agree to provide their services voluntarily.

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: Rocky Chin (Language Access Coordinator) and the other members of the Language Access Working Group (Lourdes Centeno & Iris Carrasquillo).

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:

The Division's LEP training includes: periodic bulletins with information about policy and resources; Annual Policy review for all staff; small group training (mostly receptionists and those that communicate and interact with the public); mandatory training on Executive Order No. 26, Statewide Language Access Policy, and the Language Line Services for all staff (at least once a year).

PART 6 – ADMINISTRATION

Monitoring

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

The Language Access Coordinator (LAC) and the Language Access Working Group will evaluate the implementation of this Plan by instituting evaluation procedures, which will include an internal and external survey instrument and some testing. The LAC will also work one-on-one with Division receptionists, and also utilize the Language Access Working Group to ascertain best practices regarding implementation and compliance.

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:

Fliers in our reception areas in all six languages identified in Part 2 of this Plan inform the public of Executive Order No. 26, Statewide Language Access Policy. The posted notice informs the public that complaints can be filed with the Language Access Coordinator or any member of the Language Access Working Group. The standard complaint form will be made available in all six languages at our public reception areas.

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

Upon receiving a complaint, the Language Access Coordinator or the Language Access Working Group will conduct an investigation and submit the recommendations to the Commissioner, who issues the final report.

PART 7 – SIGNATURES

Galen D. Kirkle Commissioner 9/17/2012
Head of Agency Title Date

Rockwell Chin, Director, Office of Equal Opportunity
Agency LAC Title Date September 7,
19/17/12 2012
Deputy Secretary for Civil Rights Date