

SUFFOLK COUNTY EXECUTIVE'S OFFICE OF COMMUNITY SERVICES

YOUTH BUREAU/ OFFICE OF MINORITY AFFAIRS/ OFFICE OF WOMEN SERVICES/CONSTITUTE SERVICES

Language Assistance to Limited English Proficient (LEP) Persons

Objective: Providing Language Assistance to Limited English Proficient (LEP) persons.

Revised: December 12, 2018

SCOPE:

These guidelines apply to any Department unit providing a service to a person, governmental agency or subdivision or other organization that conducts Suffolk County-funded programs. The following Language Access Program is mandated by: Suffolk County Government under Executive Order NO. 10-2012 ; and NYS Executive Order NO. 26 Language Access Policy.

Executive County agencies that provide direct public services shall, in all relevant programs and services, competently translate vital documents, including essential public documents such as forms and instructions provided to or completed by program beneficiaries or participants. The translation shall be in the six most common non-English languages spoken by individuals with limited-English proficiency in the County of Suffolk, based on United States census data, and relevant to services offered by each of such agencies. Competent translation shall mean a trans-language rendition of a written message in which the translator comprehends the source language and can write comprehensively in the target language to convey the meaning intended in the source language.

A. Assessment

Every unit providing service will make periodic assessments (but no period will be longer than one year) of the languages spoken by LEP persons within the provider's service area and the number of LEP persons who are eligible for the services, and then supply appropriate language assistance according to these guidelines. Information on the number of LEP individuals is taken from the U.S. Census YB/Minority Affairs/WS records.

B. Language Assistance

Units will take reasonable steps to assure that LEP persons receive the language assistance necessary to afford them meaningful access to the program and services.

1. Every unit will identify the initial point of contact, as well as any subsequent points of contact, with LEP persons where language assistance is likely to be needed.
2. Every unit will provide a method or methods at the initial point of contact to notify LEP persons that:
 - a. Upon request, they are offered assistance;
 - b. Language assistance will be provided at no cost to them;
 - c. Vital documents will be translated at no cost.

3. Persons with disabilities (that include but are not limited to: mental/neurological problems, blindness, deafness, physical disabilities) will be given the same services as LEP individuals if requested or needed.
4. Based on its assessments, every unit will make arrangements, based on these guidelines, for appropriate interpreter and translation purposes.
5. The language needs, the resources to provide effective language assistance to the applicant, claimant or participant (hereinafter referred to as “customer”), and the arrangements to access these resources in a timely fashion will be promptly determined and prominently displayed in the customer’s file for future reference.
6. Other methods of offering language assistance information to potential customers include:
 - a. Brochures, signs and/or flyers about language assistance services in the public areas of the agency or elsewhere in the agency’s service areas.
 - b. Outreaches and presentation of Language Access services in community organizations, and events.
 - c. Local, non-English media directed at LEP individuals in their respective languages.
 - d. Telephonic voice menu providing information in non-English languages.
 - e. Any other miscellaneous general literature released by the Departments. This include flyers, posters, brochures, documents, public service announcements, or any other type of literature, whether physical or on the Departments’ respective websites.

C. Monitoring

Periodically (but no longer will be longer than one year), every unit will monitor its language assistance program to assess its effectiveness. The Language Access Coordinator for the department will also be responsible to monitor and assess whether or not the language access programs working effectively and will be responsible to impose changes to accommodate the LEP community.

Monitoring will include, but is not limited to:

1. Determining whether existing language assistance is meeting LEP person’s needs;
2. Determining whether staff is trained in current LEP policies; and,
3. Determining whether resources and arrangements for LEP assistance are still current and viable.

I. Who is an LEP person?

A person who, due to national origin, has no ability or a limited ability to read, write, speak, or understand English to the extent that he or she cannot have meaningful access to a unit’s services might be limited English proficient and might be entitled to language assistance with respect to a particular type of service, benefit, or encounter. For LEP definition purposes only, an “applicant” or “claimant” for whom services are ultimately denied or rejected will be considered a “customer” (for LEP services) from the point of the initial contact until such time as notice of denial or rejection is effectively received and understood by the applicant or claimant. Such notice, and the communication of certain rights arising from such notice, may require appropriate translation or interpretation. All other applicants or claimants who are

eligible for a unit's services become "participants" and are, therefore, included within the definition of "customer".

A. Assessment

Assessment involves estimating the number of LEP persons in each language group that are likely to be encountered with the unit's service area, identifying the LEP language needs within the service area, identifying the language resources available to meet the LEP language needs and making arrangements to supply effective and timely language assistance.

In determining the Extent of the Obligation to Provide LEP Services, the intent is to achieve a balance that assures meaningful access to critical services while not imposing undue burden on small business, small local governments or small non-profit agencies and firms.

Providing Meaningful Access to Services

The key to assuring "the meaningful services" to services and benefits for LEP persons is to provide language assistance that result in accurate and effective communication between the unit and the customer about:

1. The types of services and/or benefits
2. The person's circumstances

Effective programs for LEP services usually consist of the following:

1. Annual assessment of the language needs of the population to be served though for example:
 - a. Identification of the language other than English that are likely to be encountered in the provider's service area and by estimating the number of LEP persons in each language group who are eligible for services and or benefits, and who are likely to be directly affected by the unit's program or activity;
 - b. Review of census and state labor-market data;
 - c. Review of statistics from school systems, community agencies and organizations; and,
 - d. Comparison to demographic data
2. Recording LEP status in customers' files to assure consistent communication in the appropriate language.
3. Identifying the stages or contact points in the program or services where language assistance is likely to be needed
4. Reviewing delivery system to determine whether any program denies or limits participation of LEP persons.
5. Understanding circumstances in which there may be a need for third-party communication (for example, communicating with the limited English proficient parent of a student under the age of 18).
6. Identifying and locating the translation and interpreter resources that are needed to provide the language assistance.

B. Language Assistance

At the minimum, LEP persons will be notified that:

1. Upon request, they are offered language assistance;
2. Language assistance will be provided at no cost to the person; and
3. Vital documents will be translated at no cost.
4. Any documents, whether physical or digital will be given a thirty (30) day maximum for assessment and adequate response.

“Vital documents” are documents written with the primary purpose of:

1. Describing LEP customer’s rights, responsibilities, or benefits;
2. Requesting information or a response from LEP customers;
3. Notifying LEP customer of a unit’s action which may be adversely affect them
4. Requiring LEP customer’s informed consent or acknowledgement; and,
5. Notifying LEP customer of the opportunity for free language assistance.

There are two major components to a language-assistance program:

1. Oral language interpretation
2. Translation of written materials.

Oral Language Interpretation

An effective language assistance program may include some or all of the following steps:

1. Hiring bilingual staff who are competent in interpreting;
2. Hiring staff interpreters who are trained and competent in interpreting;
3. Contacting with an outside interpreter service for qualified interpreters;
4. Arranging formally for the services of volunteers who are qualified interpreters; and,
5. Arranging/ contracting for the use of a telephone language interpreter service.

In-Person Encounters: The YB/Minority Affairs/WS provides posters or any other desk aids that covers 6 languages that inform LEP individuals of their right to free language assistance.

Service by telephone: When a foreign language is detected or conveyed by a caller, the staff person will seek immediate assistance, either through bilingual staff or an oral interpretation service. If a staff person is unable to determine the primary language spoken, staff will use the assistance of an oral interpretation service, whose staff is trained to assist in these circumstances and identify the LEP person’s primary language. LEP individuals often state their spoken language and they are seeking free interpretation assistance. Alternatively, bilingual staff and/or an oral interpretation service will advise the LEP person that he/she is eligible for free interpretation assistance.

For pre-planned appointments with LEP individuals, the staff will request an on-site interpreter ahead of time to communication with an LEP individual.

The Department, in conjunction with the NYS Department of Labor (NYSDOL), has access to telephone language-interpreter service with NYSDOL for unemployment Compensation Program services, as well as other services provided by NYSDOL. Also, two permanently, assigned counselors/labor representatives are on site for translation regarding services available. It is the responsibility of each unit to arrange for language interpreter services to be provided in the One-Stop centers. In selecting an interpreter, a unit should be aware that effective interpretation should include an understanding of terminology that may be peculiar to or specialized in a particular program (for example, medical terminology) as well as an awareness

of the need for confidentiality in the interpretation process. A unit should determine whether telephone interpreter services would be adequate in the light of the need for familiarity with program terminology and content, and also when there is a need to review documents.

The oral interpreter uses a privacy policy that can be found on its website (<http://languageline.com/page/privacy/>). In addition, interpreter's training requires them to sign a Code of Ethics and a nondisclosure agreement regarding the privacy and confidentiality of customer's information. Interpreters are expected to shred any notes taken during the oral interpretation session as soon as it has ended. LEP training will cover cultural competency and confidentiality. The training provided to staff will address the importance of confidentiality. Furthermore, independent interpreters will enforce standards of confidentiality in accordance with NYS Law.

The Departments' staff should and will enforce the standards of confidentiality and privacy to victims of domestic abuse. Furthermore, staff will not be able disclose any information regarding immigration status to a customer.

Cautions about Interpreter Services

- No provider may require, suggest, encourage or expect LEP customers to use friends, minor children or family members as interpreters.
- No unit may require, suggest, encourage or expect LEP customers to provide their own interpreters.
- No unit may require LEP clients to pay for interpreter services provided by the unit.

Use of Family, Friends, or Minor Children as Interpreters

The Department may expose itself to liability under Title VI and Section 188 if it requires, suggests, or encourages the use of family members, friends, or minor children as interpreters. Use of such persons could result, due to the close personal relationship, in a breach of confidentiality or a customer's reluctance to disclose personal information critical to the customer's situation. In addition, there may be a concern about the relative's, particularly a minor's, competency in communication. If after a unit informs an LEP customer of the right to free interpreter's services, the person declines such services and requests the use of family or a friend, the unit may use the designated individual if the use of such person would not compromise the effectiveness of services or violate the customer's confidentiality. The unit should document the offer and declination in the customer's file and should suggest that a trained interpreter sit in on the meeting to assure accurate interpretation.

- However, during emergencies an LEP individual will be permitted to use a minor, a family member or a friend as an interpreter. Upon request, an LEP individual may also be permitted to use a minor, friend or family member 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 choosing, he or she must fill out a written consent/waiver form in their respective language.

Level of Language Ability

Some LEP clients may not have the ability to read and understand written materials; therefore, oral interpretation of written materials may be necessary. Interpreters should be aware of

variances within a language and should be able to communicate with clients using the appropriate colloquial speech.

Qualified Interpreters

Being qualified as an interpreter does not necessarily require formal certification. However, the requirement to be qualified contemplates:

1. Demonstrated proficiency in both English and the other languages;
2. Orientation and training that include the skills and ethics of interpreting (for example, issue of confidentiality);
3. Fundamental knowledge, in both languages, of specialized terms or concepts peculiar to the unit's program or activity;
4. Demonstrated ability to convey information in both languages, accurately; and,
5. Sensitivity to the customer's culture.

Use of Language-Identification ("I speak") Cards

A two sheet, letter-sized language-identification aid that states:

Mark this box if you read or speak (language) in 37 languages besides English, is a suggested resource for use by front-desk and other staff who may assist LEP persons. This desk aid is available at: <http://www.diversityrx.org/resources/i-speak-language-identification-cards>

Translation of Written Materials

Services can range from translation of an entire document to translation into a short description of the document. After conduction the four-factor analysis discussed earlier, the Department may determine that translation of vital written materials is necessary.

1. Vital Written Materials- County guidelines suggest that the importance of the program, information, encounter, or service involved may control whether or not a document is vital. Consequences to a LEP person if the information is not provided accurately and in a timely manner should also be taken into consideration. The Departments are encouraged to create a plan for consistently determining, over time and across various activities, what documents are vital to the meaningful access to services by the LEP populations they serve. Awareness of rights or services is an important part of "meaningful services."

The guidelines suggest that written materials provided to LEP persons may include:

- a) Applications to participate in a program or activity or to receive benefits or services;
- b) Written tests that do not assess English language competency, but test competency for a particular license, job, skill for which English proficiency is not required;
- c) Consent and complaint forms;
- d) List of partners at a One-Stop Career Center and the services they provide;
- e) Letters containing important information regarding participation in a program or activity;
- f) Notices pertaining to the reduction, denial, or termination of services or benefits and of the right to appeal such actions;
- g) Information on the right to file complaints of discrimination;
- h) Information on the provision of services to individuals with disabilities;
- i) State wage and house and safety and health enforcement and information materials;
- j) Notices advising LEP persons of the availability of free language assistance; and,

k) Other outreach materials. Lack of awareness that a particular program, right, or service exists may effectively deny LEP individuals meaningful access. Thus, the departments should determine whether certain outreach materials should be translated/

l) Determining into what language documents should be translated The languages spoken by LEP persons with whom recipients come into contact determine the language into which documents should be translated. Some languages are frequently encountered while others are not. However, even if the department documents a well substantiated claim that translation into every language would require substantial costs and resources, this may not relieve the Departments of their obligation to translate document into at least several of the more frequently encountered languages. Given this fact, County guidelines suggest that the Departments set benchmarks for completing translation into remaining languages over time.

Verbatim translation may not accurately or appropriately convey the substance of what is contained in the written materials. Moreover, written materials should be translated to serve the average reading level of the LEP population served. The extent of the Department's obligation to translate documents should be determined by the Departments on a case-by-case basis, while considering the totality of the circumstances in light of the four-factor analysis discussed earlier. The Departments may find utilization of the Federal, or New York State census, for reference.

Translation of a document is a one-time expense and County guidelines suggest that this be taken into account in the analysis as well as the possibility of amortizing the up-front costs over the lifetime of the document. The volume and life span of new documents is also a consideration. When the volume is great and the life span is short, depending upon the four-factor analysis, County guideline suggest that the one option may be the translate portions of such documents and/or provide information in appropriate languages as to how to obtain free language assistance, if technology permits.

C. Training

All employees who are likely to have contact with LEP persons shall be trained to assure that they know LEP policies and procedures, that they work effectively with in-person and telephone interpreters, and that they understand the dynamics of interpretation among LEP people, providers, and interpreters. LEP training shall be part of the orientation for all new employees who work with LEP persons.

An effective language assistance program should have competent staff trained in working effectively with LEP customers. This training is mandated by NYS and Suffolk County to all workers of the Departments. To assure effective delivery of services to LEP customers, the Department should educate its staff through training programs that include, but are not limited:

1. Appropriate training during new employee orientation in serving LEP customers including, but not limited to, educating the new employee orientation in serving LEP customers including,
2. Additional training for employees in customer-contact positions, especially initial-contact positions, educating them to work effectively with: LEP customers, in-person interpreters, opportunity for free language assistance services;

3. Periodic review of LEP language-assistance practices and procedures, updating staff on more effective ways to serve LEP customers and the laws, rules and regulations pertaining to LEP customers; and
4. Maintaining a “training registry” that records the names, dates and type of LEP program-related employee training.

D. Monitoring

To assure the success of its language assistance program, the Department should monitor its program periodically, but not less than annually, to assess the effectiveness and efficiency of its program. This monitoring may include, but need not be limited to:

1. Systematic feedback from LEP customers;
2. Systematic feedback from staff;
3. Periodic in-house reviews of the current communications needs of LEP customers; and,
4. Periodic contact with community-based organizations that provide services to LEP customers.

E. Discrimination-Complaint Procedures

For regularly encountered LEP language groups, LEP persons should be provided notice of their opportunity to file a discrimination complaint in accordance with applicable County regulations. For infrequently encountered LEP language groups, LEP persons should be advised orally of the opportunity to file a discrimination complaint pursuant to the regulations. The interpreter should advise that free, oral translation of the procedure’s vital information will be provided upon request. The Departments will display signage in its public areas and information on its website indicating the process for filing a complaint with the agency when the individual is not satisfied with the quality or availability of the Department’s language access services.

The Departments will specify a clear plan for reviewing and responding to language access complaints.

Complaint procedure will be centralized through the County Executive’s office.