

Limited English Proficiency Implementation Plan for the North Dakota Department of Human Services

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Attachments

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Resources

- Tele Interpreter Services: Link to information about this service www.tele-interpreters.com. NOTE: Your Program’s/Facility’s LEP Coordinator has the access code.
- Lutheran Social Services of South Dakota: Community Interpreter Services www.lsssd.org

Web sites

<http://www.hhs.gov/ocr/lep/> - HHS Office for Civil Rights – Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons

<http://www.lep.gov>

<http://www.usdoj.gov>

<http://www.fns.usda.gov/fsp/outreach/translations.htm>

<http://www.lep.gov/resources/resources.html>

Limited English Proficiency Video - *Breaking Down the Language Barrier: Translating Limited English Proficiency into Practice* - English ([150k Non-Captioned](#)) ([150k Captioned](#)) ([56k Captioned](#))

Limited English Proficiency Implementation Plan

North Dakota Department of Human Services

This plan is for Department of Human Services (Department) employees who serve or interact with the public. This plan will be periodically updated.

It is the intent of the Department to comply with Title VI of the Civil Rights Act, which states 'No person in the United States shall on the ground of race, color or national origin, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance,' by providing a framework for the provision of timely and reasonable language assistance.

Due to the unique geographic and demographic nature of our state, the needs of the Department may vary. Department Divisions, Human Service Centers (Center), the State Hospital, and Developmental Center (Institutions) may choose to amend this plan to further define the methods available in their region of the state.

Identifying Limited English Proficiency (LEP) Individuals Who Need Language Assistance

The Department will identify LEP individuals by gathering information about the number of LEP persons served and frequency of encounters from all of the Department's Divisions, Centers, and Institutions. The Department will annually review the information collected to amend this plan.

The Department will post notices in commonly encountered languages to notify LEP individuals of language assistance to encourage them to identify themselves to the Department.

Department employees will be instructed on 'I speak' cards that will be visible and made available to the public. 'I speak' cards invite LEP persons to identify their language needs to Department employees. A copy of the cards is attached to this plan as [Attachment A](#), and can be downloaded at <http://www.usdoj.gov/crt/cor/Pubs/ISpeakCards.pdf>.

Language of the LEP person will be included as part of records normally kept of past interactions with members of the public. DHS will use this information when annually reviewing the LEP plan to identify LEP individuals.

How Department employees can obtain services to ensure access to Department services for LEP individuals

To ensure access to Department services for LEP individuals, the Department LEP plan will provide information regarding the services available for Department staff to utilize. The LEP plan will outline in the 'Language Assistance Measures' section, types of language assistance services, and how and when to access the services.

The Department will post the LEP plan and its provisions on the Department Web site.

Each Department Division, Center, and Institution will identify an LEP coordinator. These individuals will serve as resources for other staff. See Appendix H on page 16.

Department Language Assistance Measures

When Department employees encounter an LEP individual attempting to access services, Department employees **may not require** an LEP individual to use a family member or friend as an interpreter. The Department will not rely on an LEP individual's family members, friends or other informal interpreters to provide meaningful access to important programs or services.

Department employees will inform all LEP individuals that the Department provides free interpreter services upon request for their interactions with the Department.

The Department will provide the language assistance:

1. Responding to LEP Callers – Incoming and Outgoing Calls

- Tele-Interpreters 24-Hour Telephone Language Services provides translation services for incoming and outgoing calls. See information about the service at www.Tele-Interpreters.com.
- The N.D. Information Technology Department has an agreement with 'Tele-Interpreters' that permits Department employees to use this service.
- Each Center, Division, or Institution is responsible for the cost of this service.
- Department employees should follow their respective programs' purchasing requirements when accessing this service.
- Department employees should use this service only when essential.
- LEP coordinators for Department program's/facility's have the access code.

Note: It is important to ensure the interpreters are competent to interpret any technical or legal terms specific to a particular program that may be important parts of the conversation.

Where documents are being discussed, give telephonic interpreters adequate opportunity to review the document prior to the discussion and any logistical problems should be addressed.

2. Responding to LEP Individuals Who Have In-Person Contact with Department Employees

- Department employees can access Lutheran Social Services Community Interpreter Services (LSS). LSS Community Interpreter Services provide:
 - Telephone or Conference Interpreters (Interpreters are available to participate in pre-arranged phone conferences.)
 - Message Relay (Relays information between parties through phone services, to relay instructions, confirm appointments or communicate test results.)
- Each Center, Division, or Institution is responsible for the cost of this service.
- Department employees should follow their respective programs' purchasing requirements when accessing this service.
- For information about Interpreter Services go to <http://www.lsssd.org/services/refugeeinterpreter.shtml>

Note: It is important to ensure the interpreters are competent to interpret any technical or legal terms specific to a particular program that may be important parts of the conversation.

Where documents are being discussed, give telephonic interpreters adequate opportunity to review the document prior to the discussion and any logistical problems should be addressed.

3. Responding to Written Communications from LEP Persons

- The Department employees can access LSS Community Interpreter Services. LSS Community Interpreter provide:
 - Translation services for most written material, including legal documents.
- Each Center, Division, or Institution is responsible for the cost of this service.
- Department employees should follow their respective programs' purchasing requirements when accessing this service.
- For information about Interpreter Services or go to www.lsssd.org.

4. Emergency Circumstances

In emergency circumstances, Department employees may not be able to offer free language services, and temporary use of family members or friends as interpreters may be necessary.

5. Ensuring Competency of Interpreters and Translators

When using interpreters and translators, Department employees shall take reasonable steps to ensure competency. See Appendix A or page 6.

6. Determining the Most Appropriate Response

Department employees should assess three factors in determining the most appropriate response to a request for Interpreter Services: urgency, reasonableness, and timeliness. For detailed information see Appendix B or page 7.

7. Respecting an LEP Individual's Desire to Use His/Her Own Interpreter

The Department **may not require** an LEP individual to use a family member or friend as an interpreter. Department employees **must** make the LEP individual aware of the option of having an interpreter without charge, or of using his/her own interpreter.

With certain exceptions, Department employees must respect an LEP individual's choice of interpreter in place of the free language services 'expressly offered' by Department employees. For a list of exceptions, refer to Appendix C or Page 8.

8. Translation of Department Documents

For 'vital' Department documents, if there are fewer than 50 persons in a language group (that reaches five percent of the population of persons eligible to be served or likely to be affected or encountered), the Department's Division, Center, or Institution does not translate 'vital' written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost. For a list of 'vital' documents, refer to Appendix D or page 9.

Training Staff

Department Senior Management will be notified of LEP requirements annually to fully understand the Department LEP plan, to reinforce its importance, and to ensure its implementation by employees. The Department will provide initial information and training on the LEP plan to the following:

- LEP coordinators from each Division, Center, or Institution (see Appendix H or Page 16.)
- Department employees who have direct contact with the public.
 - Each Division, Center, and Institution will assess and identify employees whose duties include: answering the 1-800 lines; scheduling appointments; answering crisis calls; answering the phone; and interacting with the public on a regular basis.

The Department will provide notice to its employees about the LEP plan and require DHS employees to read and document they have read and understand the LEP provisions.

The Department will provide initial training or information to LEP coordinators about the LEP plan and its provisions. LEP coordinators will be responsible for the initial and on-going training for staff identified at the local level who may need training or information on the LEP plan. The Departments Program Civil Rights Office is also available to assist with information and training requirements.

This process will be reviewed to determine effectiveness.

The Department LEP Plan Training and Information Outcomes

LEP Coordinators and identified employees will:

- know their obligations to provide meaningful access to information and services for LEP individuals;
- know how to access the LEP resources available;
- know and understand how to implement the notice provisions of this plan; and
- be able to ensure their Division, Center, or Institution is implementing the notice provisions.

All Department employees will be notified of the LEP plan during their annual performance review, and will sign SFN 1653 declaring they reviewed the LEP plan.

All newly hired Department employees will review the LEP plan during the orientation process and sign SFN 491 declaring they reviewed the LEP plan.

Providing Notice to LEP Individuals

When Department Divisions, Centers, or Institutions encounter an LEP individual attempting to access Department services, the Division, Centers, or Institution shall:

- Make the LEP individual aware that he/she has the option of having an interpreter without charge, or of using his/her own interpreter.
- Determine whether to make a note in the record if the LEP individual voluntarily chooses to provide his or her own interpreter and of the offer of assistance.

The Department **may not require** an LEP individual to use a family member or friend as an interpreter.

The Department will provide notice that language services are available, free of charge, in a language LEP individual will understand, and how to get the language assistance.

- The Department will post materials in intake areas and other entry points so LEP individuals can learn how to access those language services. See [Attachment A](#) for materials. For resources in other languages see <http://www.usdoj.gov/crt/cor/Pubs/ISpeakCards.pdf>.

Dependent upon which region of the state and the need identified, Divisions, Centers, and Institutions may also undertake the following strategies to ensure notice is being provided.

- Attach onto documents, in the most common languages, that language services are available from the Department. See Appendix F, ND DHS Initial LEP Evaluation Pages 11 and 12 or Appendix G, ND DHS Annual LEP Evaluation Pages 13 -15, to determine most common languages.
- Consider using a telephone voice mail menu in the most common languages encountered. The menu would provide information about available language assistance services and how to receive those services.
- Work with community-based organizations and other stakeholders to inform LEP individuals of Department services, including the availability of language assistance services.
- Provide notices in local newspapers in languages other than English.

For more information to assist in identifying the most common languages in your area, search the U.S. Census Bureau <http://www.census.gov/population/cen2000/phc-t37/tab36a.pdf> or the North Dakota State Data Center at http://www.ndsu.edu/sdc/publications/population/PB_21_4press.pdf.

Monitoring and Updating the LEP Plan

The goal of the Department LEP Plan is to ensure LEP individuals have meaningful access to programs and activities.

The Department will document all efforts to implement the LEP plan. See ND DHS Initial LEP Evaluation Appendix F or Pages 11 and 12.

Annually, each Division, Center, and Institution will re-evaluate the changes in demographics, services and programs, and other needs that should be considered when determining LEP needs and keep a record of such evaluation. See ND DHS LEP Annual Evaluation Appendix G pages 13 -15.

Appendix A

Ensuring Competency of Interpreters and Translators

When using interpreters, the Department will take reasonable steps to assess the following:

- Does the interpreter demonstrate proficiency in and ability to communicate information accurately in both English and in the other language?
- Can the interpreter identify and employ the appropriate mode of interpreting?
- To the extent necessary, does the interpreter have knowledge in both languages of any specialized terms or concepts peculiar to your Division, Center, or Institution's program or activity?
- To the extent necessary, does the interpreter have knowledge in both languages of any particularized vocabulary and phraseology used by the LEP individual?
- Does the interpreter need to understand and follow confidentiality and impartiality rules to the same extent as the employee for whom they are interpreting and/or to the extent the position requires?

Note: Interpreters working with client confidential information are required to sign the Translator and Interpreter Confidentiality Acknowledgment form. See ND DHS Translator and Interpreter Confidentiality Acknowledgment form Appendix E or Page 10.

When using translators, the Department will take reasonable steps to assess the following:

- Does the translator understand the expected reading level of the audience?
- Does the translator have knowledge about the target language group's vocabulary and phraseology?
- Is the translator able to provide an appropriate translation if there are languages which do not have a direct translation of some specialized terms? (Staff should be informed of this by the translator.)

Note: Your Division, Center, or Institution may have additional self-imposed requirements for interpreters and translators.

The use of certified interpreters is strongly encouraged where individual rights depend on complete and accurate interpretation or translations, particularly in the context of administrative proceedings.

Appendix B

Determining Urgency

When determining urgency, assess whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual. Consider the importance and urgency of the program, activity, or service.

- The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individual, the more likely language services are needed.
- If the activity is both important and urgent, it is more likely that relatively immediate language services are needed.
- If the activity is important, but not urgent, it is more likely language services are needed, but such services can be delayed for a reasonable period of time.
- If an activity is neither important nor urgent, it is more likely language services would not be needed.

Determining “Reasonable”

When determining ‘reasonable,’ each Division, Center, or Institution needs to determine the types of resources available or possible options available to determine if interpretation services are reasonable.

Before using this factor as a reason to limit language assistance, large entities and those entities serving a significant number or proportion of LEP individuals should ensure their resource limitations are well-substantiated.

For more information, see HHS Office for Civil Rights – Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons:

www.hhs.gov/ocr/lep

Determining Timeliness

While there is no single definition for ‘timely,’ one clear guide is language assistance should be provided at a time and place that avoids the effective denial of the service, benefit, or right at issue or the impositions of an undue burden on or delay in important rights, benefits, or services to the LEP individuals.

Where access to or exercise of a service, benefit, or right is not effectively precluded by a reasonable delay, language assistance can likely be delayed for a reasonable period.

Appendix C

Respecting an LEP Individual's Desire to Use an Interpreter of His or Her Own Choosing

The Department **may not require** an LEP individual to use a family member or friend as an interpreter. With the certain exceptions noted below, DHS employees will respect an LEP individual's choice of interpreter in place of the free language services 'expressly offered.' The Department **must** make the LEP individual aware of the option of having an interpreter without charge, or of using his or her own interpreter.

When determining whether to respect the desire of the LEP individual's choice of interpreter, Department employees shall consider the following:

- Do you believe the interpreter competent in the circumstances?
- Do you believe the interpreter appropriate in light of the circumstances and subject matter?
- Is there an administrative or enforcement interest in accurate interpretation by the Department?
- Did you make a note in the record of the LEP individual's decision and the offer of assistance?

Even if an LEP individual wants to use his or her own interpreter, the Department may want to consider providing an independent interpreter for certain events.

- Are you conducting an administrative hearing?
- Are you conducting a child or adult protective service investigation?
- Is the contact a life, health, and/or safety situation?
- Is the contact about accessing important benefits and services?
- Is the contact about protecting an individual's rights and access to important services?
- Is precise, complete, and accurate interpretations or translation of information and/or testimony considered critical?
- Is the competency of the LEP individual's interpreter not yet established?

Extra caution should be exercised when the LEP individual chooses to use a minor as the interpreter. While the LEP individual's decision should be respected, there may be additional issues of competency, confidentiality, or conflict of interest.

Department employees should take reasonable steps and consider:

- Is the LEP individual's choice voluntary?
- Is the LEP individual aware of the possible problems?
- Does the LEP individual know a competent interpreter can be provided at no cost?

Appendix D

Translation of 'Vital' Department Documents

To determine if a document is 'vital,' assess whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual.

Whether a document is 'vital' may depend upon the importance of the program, information, or service involved, and the consequence to the LEP individual if the information in question is not provided accurately or in a timely manner.

Classifying a document as 'vital' is sometimes difficult, especially in the case of outreach materials or information on rights and services. Awareness of rights or services is an important part of 'meaningful access.'

Examples of 'vital' written documents could include the following:

- Consent and complaint forms
- Intake forms with the potential for important consequences
- Written notices of eligibility criteria, rights, denial, loss or decrease in benefits or services, actions affecting parental custody or child support and other hearings
- Notices advising LEP individual of free language assistance
- Applications for a program, activity, or to receive a benefit or service

To ensure greater certainty of compliance with Title VI obligations, the Department can develop a 'safe harbor'. A 'safe harbor,' means if the Department provides written translation under these circumstances, such action will be considered strong evidence of compliance with the Department's written-translation obligations.

- The Department provides written translation of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- If there are fewer than 50 persons in a language group that reaches the five percent trigger, the Department does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

For more information regarding the Safe Harbor requirements, see HHS Office for Civil Rights – Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons at www.hhs.gov/ocr/lep/.

Appendix E

Translator and Interpreter Confidentiality Acknowledgment

Policy: All translators and interpreters shall keep confidential information regarding clients of the Department of Human Services (“Department”) that is obtained through the provision of translator and interpreter services on behalf of the Department.

Procedure: While translating or interpreting information, translators and interpreters will gain information about clients. Information learned during the course of this translation or interpretation, which may include the identity of individuals who are currently or have been in treatment, is strictly confidential (“Confidential Information”). It is vitally important to the clients and their families that the Confidential Information be closely guarded. Confidential Information may not be discussed with anyone not working with Department clients, which includes immediate family members unless: (a) disclosure is permitted by federal and/or state law and (b) disclosure is otherwise required by law. The confidentiality requirements continue after termination of translation or interpretation services.

Each translator and interpreter is responsible for ensuring the privacy of Confidential Information. Each translator and interpreter should be aware that if legal action is taken against the Department for breach of this Confidentiality Policy, that the translator or interpreter violating this policy will be liable for prosecution under the law.

I, _____, have read the above policy regarding Confidential Information, and agree to abide by this policy.

Signature

Date

Witness

Appendix F

North Dakota Department Of Human Services Initial LEP Evaluation

Each Division, Center, and Institution will evaluate the following factors and keep a record of such evaluation.

Name of Division, Center, or Institution _____

List the current LEP populations in your service area or populations affected or encountered.

What sources did you use to determine the populations?

Describe the frequency of encounters with LEP language groups.

List the programs and activities you provide and determine the importance of each program and activity to LEP individuals.

Use the following to determine the importance:

- The more important the activity, information, service or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed.
- If the activity is both important and urgent, it is more likely that relatively immediate language services are needed.
- If the activity is important, but not urgent, it is more likely language services are needed, but can be delayed for a reasonable period of time.
- If an activity is neither important nor urgent, it is more likely language services would not be needed.

Where access to or exercise of a service, benefit, or right is not effectively precluded by a reasonable delay, language assistance can likely be delayed for a reasonable period.

Are there other needs that should be considered when determining LEP needs for your service area?

List resources available in your service area and the costs associated with the use of these resources.

Are existing methods of assistance meeting the needs of LEP individuals in your service area?
Describe.

Divisions, Centers, and Institutions shall document all efforts to provide LEP individuals with meaningful access to programs and activities.

A COPY OF THIS DOCUMENT WILL BE KEPT WITH THE PROGRAM CIVIL RIGHTS OFFICE.

Signature LEP Coordinator

Date

Appendix G

North Dakota Department of Human Services LEP Annual Evaluation

Annually, each Division, Center, and Institution will re-evaluate the following factors and keep a record of such evaluation. These will be reviewed and completed the month of October.

Name of Program, Center, or Institution _____

List the current LEP populations in your service area or populations affected or encountered.

What sources did you use to determine the populations in your service area?

Describe the frequency of encounters your Division, Center, or Institution had with LEP language groups.

Have there been changes in demographics in your service during the past year? If yes, describe.

List the programs and activities you provide and determine the importance of activities to LEP individuals.

Have there been changes in the types of services and activities provided in your service area in the past year, if so describe?

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Have you determined the importance of these services and activities to the LEP and have you planned for LEP individuals? For each, use the following set of standards to determine LEP needs.

- The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed.
- If the activity is both important and urgent, it is more likely that relatively immediate language services are needed.
- If the activity is important, but not urgent, it is more likely language services are needed, but such services can be delayed for a reasonable period of time. If an activity is neither important nor urgent, it is more likely language services would not be needed.

Are there other needs that should be considered when determining LEP needs for your service area? You are encouraged to seek feedback from the community in your service area and document those contacts.

List resources available in your service area and the costs associated with the use of these resources.

In the past year, have there been any technological advances or new resources to assist LEP individuals? If yes, describe.

What are the costs associated with the use of these advances or new resources?

Are existing methods of assistance meeting the needs of LEP individuals in your service area?

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Does your Division, Center, or Institution annually assess whether your employees know and understand the LEP plan and how to implement it?

_____ Yes _____ No

Does your Division, Center, or Institution annually assess whether identified sources for assistance are still available and viable.

_____ Yes _____ No

Divisions, Centers, and Institutions shall document efforts to provide LEP individuals with meaningful access to programs and activities.

A COPY OF THIS DOCUMENT WILL BE KEPT WITH THE PROGRAM CIVIL RIGHTS OFFICE.

Signature LEP Coordinator

Date _____

Appendix H

LEP Coordinator Duties

Each Division, Center, and Institution will appoint an LEP Coordinator.

LEP Coordinators will be responsible for:

- ensuring employees at the local level are aware of the Department LEP Plan;
- training and informing 'identified' employees with the provisions of the plan;
- ensuring their Division, Center, or Institution employees are aware of their LEP Coordinator duties;
- providing technical assistance to employees regarding the LEP requirements to provide meaningful access; and
- conducting the initial LEP plan and annually assessing the LEP plan.

The Program Civil Rights Officer will be responsible for overall LEP coordination and will train and inform LEP Coordinators on the Department's LEP plan and its provisions. The Program Civil Rights Officer will be available to assist LEP Coordinators.

Attachment A



LANGUAGE IDENTIFIER

DN 184

Do you want an interpreter if you are interviewed? One will be provided at no cost to you. Yes or No	English
Da li želite prevodioca ako ste intervjuisani? Bit će vam pribavljen i neće vas koštati. Da ili Ne?	Bosnian
Quiere tener un interprete, si usted tien una entrevista? Se le proveera uno sin ninguncosto. Si O No.	Spanish
Ma Rabtaa turtuman, Hadii lagulayesho is AraqQot lagu wareystay? Hal waa lagugu kal-mayan. Ama gargaari 00 aanlacag ahayn HAA ama MAYA	Somali
ئەری تە دقئیت تەرجمان گەر تو هاتی هەقئیتن؟ ئیک دپهیت پهیدا کرن بوته به لاش. ئەری () یان نه ()	Kurdish

Name of Individual

Date