



U.S. Department of Justice

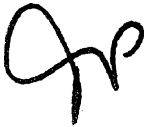
Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MEMORANDUM

TO: Civil Rights Division Employees

FROM: Thomas E. Perez
Assistant Attorney General 

DATE: February 21, 2012

SUBJECT: Civil Rights Division Language Access Plan

The following language access Plan governs all interactions between Civil Rights Division staff and limited English proficient (LEP) persons when Division staff encounter or have reason to believe that they may encounter LEP individuals in the course of enforcing federal civil rights statutes or when conducting outreach and education about civil and constitutional rights:

1. GENERAL LANGUAGE ACCESS POLICY DIRECTIVE

a. Policy Statement

1. It is the policy of the Civil Rights Division that Division staff must take reasonable steps to provide LEP persons with meaningful access to all Division programs or activities.
2. It is the responsibility of the Division and not the LEP person to ensure that communications between the Division and the LEP person are not impaired as a result of the limited English proficiency of the individual.
3. Division staff must take reasonable steps to effectively inform the public of the availability of language accessible programs and activities.

b. Purpose and Authority

The purpose of this Plan is to eliminate or reduce – to the maximum extent practicable – limited English proficiency as a barrier to accessing Division programs or activities. This Plan

establishes guidelines in accordance with Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 65 Fed. Reg. 50,121 (Aug. 16, 2000). These guidelines are designed to be consistent with the standards set forth in the Department's initial LEP Guidance, Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency, 65 Fed. Reg. 50,123 (Aug. 16, 2000);¹ the Department's later LEP Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (June 18, 2002);² the Attorney General's memorandum to the heads of Department components, Language Access Obligations Under Executive Order 13166 (June 28, 2010);³ and the Department's Revised Language Access Plan (2012). Failure to provide timely language assistance services to LEP individuals may result in a denial of substantially equal and meaningfully effective Division programs or services.⁴

c. Definitions

1. *Administrative Management Section (ADM)* – The ADM of the Division includes individuals charged with promulgating and implementing Division policy with respect to Human Resources, Information Technology, and Procurement.
2. *Direct “In-Language” Communication* – Monolingual communication in a language other than English between a multilingual staff and an LEP person (e.g., Korean to Korean).
3. *Effective Communication* – Communication sufficient to provide the LEP individual with substantially the same level of services received by individuals who are not LEP. For example, staff must take reasonable steps to ensure communication with an LEP individual is as effective as communications with others when providing similar programs and services.
4. *Interpretation* – The act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.
5. *Language Assistance Services* – Oral and written language services needed to assist LEP individuals to communicate effectively with staff, and to provide

¹ This document is available at <http://www.justice.gov/crt/about/cor/Pubs/eolep.pdf>

² This document is available at <http://www.justice.gov/crt/about/cor/lep/DOJFinLEPFRJun182002.php>

³ This document is available at http://www.justice.gov/crt/about/cor/language_access_memo.pdf. Further information, guidance, and technical assistance on the implementation of Executive Order 13166 can be found on the website of the Federal Coordination and Compliance Section of the Civil Rights Division, <http://www.justice.gov/crt/about/cor/>, or www.lep.gov.

⁴ The LEP Guidance to DOJ Recipients provides further information regarding the definition of timeliness: “While there is no single definition for ‘timely’ applicable to all types of interactions at all times by all types of recipients, one clear guide is that the 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 imposition of an undue burden on or delay in important rights, benefits, or services to the LEP person.” 67 Fed. Reg. at 41,461.

LEP individuals with meaningful access to, and an equal opportunity to participate fully in the services, activities, or other programs administered by the Division.

6. *Limited English Proficient (LEP) Individuals* – Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. LEP individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing).
7. *Meaningful Access* – Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed or inferior as compared to programs or activities provided to English proficient individuals.
8. *Multilingual staff* – A staff person who has demonstrated proficiency in English and reading, writing, speaking, or understanding at least one other language.
9. *Primary Language* – An individual’s primary language is the language in which an individual most effectively communicates.
10. *Program or Activity* – The term “program or activity” and the term “program” mean all of the operations of the Division.⁵
11. *Qualified Translator or Interpreter* – An in-house or contracted translator or interpreter who has demonstrated his or her competence to interpret or translate through court certification or is authorized to do so by contract with the Division or by approval of ADM and his or her Section Chief.
12. *Sight Translation* – Oral rendering of written text into spoken language by an interpreter without change in meaning based on a visual review of the original text or document.
13. *Translation* – The replacement of written text from one language (source language) into an equivalent written text in another language (target language).

⁵ For the purposes of this Plan, the definition of “program or activity” is identical to that used under the regulations implementing Section 504 of the Rehabilitation Act of 1973: “[A] federally conducted program or activity is, in simple terms, anything a Federal agency does. Aside from employment, there are two major categories of federally conducted programs or activities covered by the regulation: those involving general public contact as part of ongoing agency operations and those directly administered by the department for program beneficiaries and participants. Activities in the first part include communication with the public (telephone contacts, office walk-ins, or interviews) and the public’s use of the Department’s facilities (cafeteria, library). Activities in the second category include programs that provide Federal services or benefits (immigration activities, operation of the Federal prison system).” 28 C.F.R. § 39.102.

14. *Vital Document* – Paper or electronic written material that contains information that is critical for accessing the Division’s program or activities, or is required by law.⁶

d. Scope of Policy/Staff Compliance

Division staff must take all practicable steps to provide language assistance services at no cost to LEP individuals when they encounter or have reason to believe that they may encounter LEP individuals in the course of enforcing federal civil rights statutes or when conducting outreach and education about civil and constitutional rights.⁷ Division staff should also provide Division-funded language assistance measures upon request by any LEP person who is a complainant, victim, witness, or other interested person in a case or matter. The Division’s language assistance services should be provided by competent multilingual employees, interpreters or translators. Competency requires more than self-identification as multilingual. A multilingual employee may be able to communicate effectively in a non-English language when communicating information directly in that language, but not be competent to interpret in and out of English. Likewise, he or she may not be able to do written translations.⁸ A Division employee may demonstrate competence to provide language assistance services through successful completion of a Division-approved language skills assessment or by approval by his or her Section Chief and ADM.⁹

This directive is intended only to improve the internal management of the Division’s language access program, and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person. Any individual who wishes to raise concerns regarding the Division’s implementation of this policy may do so by submitting the relevant information to the Division’s Language Access Coordinator.

This Plan supersedes prior policies, plans, or statements, if any, on the same topic.

e. Coordinating Implementation of the Division’s Language Access Plan

The Assistant Attorney General will designate a Division-wide Language Access Coordinator. Each Section Chief within the Division will designate a staff member to be the primary point of contact (POC) for coordination of language assistance services within the Section. The Division’s Coordinator and Section POCs should meet periodically to monitor and evaluate implementation of this Plan as part of the Division’s Language Access Working Group. The Chair of the Division’s Language Access Working Group is the Chief of the Federal Coordination and Compliance Section. The Coordinator, in consultation with the Language

⁶ See Part 1(f) (Requirement to Translate “Vital” Documents).

⁷ The term “staff” includes contractors working for the Division. Division interns who will have interaction with the public should be briefed on the Division’s language access policies, plan, and procedures by their supervisor or his or her designee.

⁸ For further information regarding the competence of interpreters and translators, see LEP Guidance to Recipients, 67 Fed. Reg. at 41,461, 41,464.

⁹ See Part 2(f) (Assessing Language Capabilities).

Access Working Group, will be responsible for the oversight, training, performance, coordination, and implementation of all aspects of the Division's language assistance services to LEP individuals. The Coordinator will report to the Chair of the Division's Language Access Working Group. The Chair of the Division's Language Access Working Group and the Coordinator will periodically brief the career Deputy Assistant Attorney General or his or her front office designee and seek front office guidance and support, as necessary.

The Coordinator will prepare an annual report for the Assistant Attorney General on the Division's work to provide adequate language assistance. Each Section's language access POC should provide the Division's Coordinator with the information necessary to complete the annual language access report.

The Coordinator will also consult with appropriate counterparts in other Department of Justice components to identify synergies or economies of scale, and to maximize resource-sharing where appropriate.

f. Requirement to Translate "Vital" Documents

The Division prioritizes translation of vital documents. All in-house translations should be completed by multilingual staff who have undergone a language skills assessment or who have been approved to perform this task by his or her Section Chief and ADM. Translations outsourced to outside vendors, including vendors approved by the General Services Administration (GSA) and community-based organizations, must be performed by qualified translators approved by ADM.¹⁰ Division staff must not rely upon machine or automatic translations. For written translations, the Division should collaborate with other agencies to share resources, improve efficiency, standardize federal terminology, and streamline processes for obtaining community feedback on the accuracy and quality of translations intended for mass distribution. If a document is lengthy and contains both vital and nonvital information, other forms of providing meaningful access may be used.¹¹ For example, providing a sight translation by a qualified interpreter of certain vital documents might be acceptable under some circumstances. The Section's POC, in consultation with his or her Section Chief, is responsible for determining how the contents of a vital document is conveyed to an LEP individual.

Classification of a document as "vital" depends upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner. The determination of what documents are considered "vital" is left to the discretion of the Section's POC, in consultation with his or her Section Chief. In addition, the Section's POC should consider recommendations on what documents to translate and the languages for translation from a manager familiar with the case, matter or outreach project. Documents that could be classified as "vital" fall into two broad categories: (1) specific communication regarding a case or matter between an individual and the Division; and, (2) documents primarily geared towards the general public or a broad audience.

¹⁰ See Part 2(f) (Assessing Language Capabilities).

¹¹ See LEP Guidance to Recipients, 67 Fed. Reg. at 41,463.

1. *Translations Regarding a Case or Matter Between an Individual and the Division*

The purpose of translating case-related vital documents is to provide LEP individuals most affected by the case or matter with meaningful access to the investigation or resolution of the complaint. Therefore, the Division should translate any written complaints or charges received in non-English languages in order to assess whether the Division will accept the case or matter. The Section's POC, in consultation with his or her Section Chief, should determine which case-related documents are considered "vital" and the languages targeted for translation. Factors that may influence whether a case-related written document should be translated may include the geographic location of the case; the language proficiency of beneficiaries or anticipated beneficiaries of resolution; involvement of LEP complainants, victims, witnesses, or defendants; or the nature of the case.

For example, when presented with a lengthy settlement or resolution agreement affecting LEP persons, a Section Chief may elect to create an executive summary of the document and choose to translate this summary document (in lieu of the settlement agreement) into the languages spoken by the LEP persons involved or affected. Alternatively, in jurisdictions with large non-English speaking populations such as Puerto Rico, a Section Chief may elect to designate more written documents as vital, and consequently translate these items into Spanish.

In some situations, a Section Chief, in consultation with relevant case or project teams, may determine that it is necessary to translate press releases, particularly if the case involves a large number of LEP individuals or if translation of the press release may provide helpful information to other LEP individuals who may be similarly impacted to the complainants at issue. The determination of what documents are considered "vital" is within the discretion of each Section.

Further examples of case-related documents that may be considered "vital" include:

- Complaints, release or waiver forms;
- Claim or application forms;
- Letters of findings;
- Consent orders or decrees;
- Memoranda of Agreement (MOAs), conditions of settlement or resolution agreements;
- Letters or notices pertaining to statutes of limitations, referrals to other federal agencies, the Division's decision to decline to investigate a case or matter, or closure of an investigation, case or matter;
- Time-sensitive notices, including discovery requests that require the individual's cooperation in answering, or other investigation or litigation-related deadlines;

- Forms or written material related to individual rights;
- Notices of community meetings or other case related community outreach; and,
- Notices regarding the availability of language assistance services funded by the Division for LEP individuals.

2. Translations for the General Public or a Broad Audience

Section POCs, in consultation with their Section Chiefs, should ensure that vital documents intended for public outreach and education campaigns are translated where a significant number or proportion of the population eligible to be served or likely to be directly affected by a Division program or activity needs service or information in a language other than English in order to be effectively informed of or to participate in the program.¹² For example, the Division should prioritize translating all complaint forms and Privacy Act release forms published by the Division for distribution to individuals for the purpose of soliciting information about or allegations of possible violations of federal civil rights statutes. Under most circumstances, materials primarily directed to attorneys, advocates, architects, police, or other professionals will not be considered “vital” for these purposes.

The Division should also take reasonable steps to translate public website content and electronic documents that contain vital information about Division programs and language assistance services.¹³ Translation of web content may include web pages that contain important information intended for the general public, such as information about the Section’s jurisdiction and mission, information about how to file a complaint, information about how to contact the component, and information designed to educate individuals or communities about their rights under law.¹⁴

Section POCs and Section Chiefs will identify appropriate languages for translation and prioritize the translation of vital documents. Section POCs are encouraged to consult with each other and with entities representing LEP interests – including community groups, non-profit organizations, and other stakeholders – to determine which outreach materials should be translated and target languages for translation.

¹² See 28 C.F.R. § 42.405 (d)(1). The Division may consider the top languages spoken by LEP individuals as a guide for prioritizing languages for translation of vital documents. According to the American Community Survey’s (ACS) multi-year data for 2006-2010, the top languages spoken at home by LEP persons age 5 years or over are Spanish, Chinese, Vietnamese, Korean, Tagalog, and Russian. (The ACS data do not distinguish between Mandarin and Cantonese under the category of “Chinese.”) Together, LEP speakers of these six languages represent 81 percent of LEP individuals age 5 years and over. 2006-2010 ACS 5-Year Estimates, http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_10_5YR_B16001&prodType=table.

¹³ See Part 2(h) (Outreach Regarding Availability of Language Assistance Services); Office of Management and Budget, Executive Office of the President, memorandum for the heads of Executive departments and agencies, Policies for Federal Agency Public Websites (Dec. 17, 2004), available at <http://www.whitehouse.gov/omb/memoranda/fy2005/m05-04.pdf>.

¹⁴ Section POCs are encouraged to review the General Services Administration’s guidance on multilingual websites, <http://www.howto.gov/web-content/multilingual>, when including multilingual content on their websites.

g. Community Engagement and Outreach

Providing meaningful access to LEP individuals should also be considered in existing and future outreach and education initiatives within the Division. Division staff should take steps to assess whether LEP individuals may be part of an audience and should eliminate or reduce – to the maximum extent practicable – limited English proficiency as a barrier to information about the Division’s programs and activities. Each Section with significant LEP contacts should undertake appropriate written and oral outreach efforts designed to alert LEP communities and individuals as to the nature, scope, and availability of the language assistance services set out in this Plan.

Sections are encouraged to consult with entities representing LEP interests – including community groups, non-profit organizations, and other stakeholders – to obtain feedback on the accuracy and quality of Division language assistance services. As part of their overall outreach initiatives, Sections may maintain a list of community-based organizations, non-governmental organizations, and other stakeholders with whom they regularly interact, which work with LEP populations. These and other stakeholders can provide important input and can assist in identifying populations for whom outreach is needed and who would benefit from the Division’s programs and activities.