

Columbus City Attorney's Office Language Access Plan

January 10, 2015

1. GENERAL LANGUAGE ACCESS POLICY

a. Policy Statement

1. It is the policy of the Columbus City Attorney's Office (CAO) that CAO staff shall take reasonable steps to provide limited English proficient (LEP) persons with meaningful access to all programs or activities conducted by the CAO.
2. This policy is based on the principle that it is the responsibility of the CAO and not the LEP person to take reasonable steps to ensure that communications between the CAO and the LEP person are not impaired as a result of the limited English proficiency of the individual.
3. CAO staff shall 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 language access plan (Plan) is to make reasonable efforts to eliminate or reduce limited English proficiency as a barrier to accessing CAO programs or activities. This Plan was created by the CAO Language Access Team.

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 of Justice'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 of Justice'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 and the Attorney General's memorandum to the heads of Department components, Language Access Obligations Under Executive Order 13166 (June 28, 2010).³

It is necessary for CAO staff to make reasonable efforts to provide timely language assistance services to ensure that LEP individuals have substantially equal and meaningfully effective access to CAO programs or services.⁴

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 Regarding timeliness, the LEP Guidance to DOJ Recipients provides that "[w]hile 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

c. Definitions

1. *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).
2. *Effective Communication* – Communication sufficient to provide the LEP individual with substantially the same level of access to 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.
3. *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.
4. *Language Assistance Services* – Oral and written language services needed to assist LEP individuals to communicate effectively with staff, and to provide LEP individuals with meaningful access to, and an equal opportunity to participate fully in, the services, activities, or other programs administered by the CAO.
5. *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).⁵
6. *Meaningful Access* – Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual.⁶ 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.
7. *Multilingual staff or employee* – A staff person or employee who has demonstrated proficiency in English and reading, writing, speaking, or understanding at least one other language as authorized by the CAO.
8. *Primary Language* – An individual’s primary language is the language in which an individual most effectively communicates.
9. *Program or Activity* – The term “program or activity” and the term “program” mean all of the operations of the CAO.
10. *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 CAO or by approval of the CAO.

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.

⁵ The Department of Justice has determined that Executive Order 13166 applies only to persons who are located within the United States and its territories, and does not apply extraterritorially.

⁶ When federal rules or statutes allow for recovery of fees against a losing party to a court proceeding, it is the policy of the CAO not to seek recovery of costs for language assistance services if doing so would result in discrimination against LEP individuals.

11. *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.
12. *Translation* – The replacement of written text from one language (source language) into an equivalent written text in another language (target language).
13. *Vital Document* – Paper or electronic written material that contains information that is critical for accessing the CAO’s programs or activities, or is required by law.

d. Scope of Policy/Staff Compliance

CAO staff will take reasonable steps to provide language assistance services to LEP individuals when they encounter or have reason to believe that they may encounter LEP individuals in the course of fulfilling their mission. Subject to guidelines set forth herein, CAO staff will take reasonable steps to provide language assistance services upon request by an LEP person who wishes to access CAO programs or activities or to whom CAO staff wishes to communicate.⁷

This directive is intended only to improve the internal management of the CAO’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 CAO, its officers or employees, or any person. Because this document is intended for the internal management of the CAO’s language access program, it is not intended to be cited in any judicial or administrative proceeding. Administration of the programs discussed herein is within the sole discretion of the CAO.

2. BACKGROUND

On a regular basis CAO staff interview witnesses and victims in criminal matters and more rarely in civil and administrative cases and investigations. The bulk of this service and outreach is focused on crime victims and victims of domestic violence. Information is compiled to better prosecute criminal cases. Individuals who seek assistance are also directed to outside resources when needed.

These and other examples highlight that the CAO’s mission depends on accurate communication with members of the public, regardless of their level of English proficiency. In compliance with Executive Order 13166, this Plan details the CAO’s initiatives to enhance access to its federally conducted programs and activities by LEP individuals.

a. Developing and Updating the CAO Plan

The CAO focuses on implementing practical policies and procedures that will enable staff in the CAO to communicate with LEP individuals. Understanding the ways in which individuals in general, and consequently LEP individuals, interact with the CAO has been critical in determining which language access policies and procedures apply to each component.

In compliance with the Attorney General’s June 2010 memorandum, CAO began the process of creating a language access plan by evaluating its current efforts to provide meaningful access to LEP individuals and by applying the four-factor analysis set out in guidance issued in accordance with Executive Order 13166.

⁷ The CAO seeks to deliver the highest standards of professional competence and ethical conduct during the course of fulfilling its mission. Consequently, CAO attorneys should also consider their responsibilities under the applicable rules of professional conduct when dealing with LEP individuals, including unrepresented parties, victims, and witnesses.

The four-factor analysis was used to determine the appropriate language assistance services to ensure an LEP individual has meaningful access to the CAO's programs and activities. The four-factor analysis considers: (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and, (4) the resources available to the program and costs.⁸

3. OPERATIONAL GUIDELINES IN THE PROVISION OF LANGUAGE ASSISTANCE SERVICES

a. Quality Control

Ensuring the quality and accuracy of language assistance services provided by the CAO is critical to providing LEP individuals with meaningful access to CAO programs and activities. CAO has taken reasonable steps to ensure that all staff or contracted personnel who serve as translators, interpreters or who communicate "in-language" with LEP persons are competent to do so. Considerations of competency in light of particular tasks may include:

- Demonstrated proficiency in and ability to communicate information accurately in both English and the other language;
- Identifying and employing the appropriate mode of interpreting (e.g., consecutive, simultaneous, or sight translation), translating, or communicating fluently in the target language;
- Knowledge in both languages of any specialized terms or concepts particular to the component's program or activity and of any particularized vocabulary used by the LEP person;
- Understanding and following confidentiality, impartiality, and ethical rules to the same extent as CAO staff;
- Understanding and adhering to their role as interpreters, translators, or multilingual staff.

Reasonable steps have been taken to ensure that all staff or contracted personnel who serve as translators are briefed by CAO staff on the context and intended audience for the translated text.

Absent exigent circumstances, the CAO will avoid using family members (including children), neighbors, friends, acquaintances, and bystanders to provide language assistance services. Likewise, CAO will avoid using individual opposing parties, adverse witnesses, or victims to a dispute as interpreters. Using family, friends, bystanders, or parties to a dispute to interpret could result in a breach of confidentiality, a conflict of interest, or inadequate interpretation.

b. Translation of CAO Texts

1. Translating Vital Documents

The CAO prioritizes translation of vital documents. 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 at the discretion of the CAO.

⁸ LEP Guidance to Recipients, 67 Fed. Reg. at 41,459.

Essentially, there are two distinct types of vital documents – those that are meant for the general public or a broad audience, and those that are specific communications regarding a case or matter between an individual and the CAO. The CAO will identify and prioritize vital documents or texts to translate. CAO will also ensure that all translations are completed by qualified translators.

Documents that are considered “vital” may include, but are not limited to, certain:

- Administrative complaints, release, or waiver forms;
- Claim or application forms;
- Public outreach or educational materials (including web-based material);
- Notices regarding the availability of language assistance services provided by the CAO at no cost to LEP individuals.

Under most circumstances, materials primarily directed to attorneys, advocates, architects, police, or other professionals will not be considered “vital” for these purposes. CAO may also be subject to applicable legal standards that may vary based on pertinent federal local rules. CAO will necessarily be guided by those legal standards in making decisions as to translation, and this Plan is not intended to supersede or alter those requirements.

2. Translating the CAO’s Web Content

CAO shall take reasonable steps to translate public website content and electronic documents that contain vital information about programs and services. CAO shall identify the appropriate languages for translation and shall determine which electronic documents contain vital information. Translations of web content may include web pages that contain important information intended for the general public, such as information about the COA’s jurisdiction and mission, information about how to file a complaint, information about how to contact the CAO, and information designed to educate individuals or communities about their rights under the law.

c. Identifying LEP Individuals

CAO staff will, at the point of first contact with an LEP individual, make reasonable efforts to conduct or arrange for an initial assessment of the need for language assistance services, and CAO will make reasonable efforts to obtain such services if they are needed to effectively communicate with the individual. CAO staff can determine whether a person needs language assistance in several ways:

- Self-identification by the non-English speaker, LEP individual or companion;
- Inquiring as to the primary language of the individual if they have self-identified as needing language assistance services;⁹
- Asking a multilingual staff or qualified interpreter to verify an individual’s primary language;

⁹ Staff should avoid assumptions about an individual's primary language. Some countries have multiple distinct languages, which are often misperceived as different dialects with only a slight variance. For example, LEP persons from Latin American countries may speak an indigenous or non-Spanish language as their primary language. Staff should make every effort to ascertain an individual's primary language to ensure effective communication without making assumptions based on race, color, or national origin.

- Using an “I Speak” language identification card or poster.

d. Tracking and Reporting

CAO will collect data regarding its provision of language assistance services and provide this data to the CAO Language Access Team every year in order for the CAO Language Access Team to assess the effectiveness of CAO’s language assistance services.¹⁰ The CAO Language Access Team will identify the data to be collected, which may include the number of cases, matters, or outreach initiatives in which language assistance services were provided; the primary languages of communication with the LEP persons; the cost of any language assistance services provided; and the type of language assistance provided during a case or matter, if any.

e. Staff Training

CAO will take reasonable efforts to ensure that new and existing staff members periodically receive training on: the content of the language access policy; identifying language access needs; and, providing language assistance services to LEP individuals. The CAO Language Access Team will develop a basic language access training that will be used as training for staff having the potential to interact or communicate with LEP individuals, staff whose job it is to arrange for language support services, and managers of such staff. The COA Language Access Team will develop and review training options and make any further recommendations as appropriate.

CAO will take reasonable steps to ensure that relevant staff members receive training on the CAO’s language access policies, Plan, and procedures. Training will include, but is not limited to:

- Identifying the language needs of an LEP individual;
- Working with an interpreter in person or on the telephone;
- Requesting documents for translation;
- Accessing and providing language assistance services through multilingual employees, in-house interpreters and translators, or contracted personnel;
- Duties of professional responsibility with respect to LEP individuals;
- Interpreter ethics;
- Tracking the use of language assistance services; and
- Tips on providing effective assistance to LEP individuals.

f. Human Resources

The CAO values the multilingual skills of its employees. When considering human resource and hiring policies, the CAO will assess the extent to which non-English language proficiency in particular languages is necessary for particular positions or to fulfill the CAO’s mission.

¹⁰ See Part 3(k) (Performance Measurement and Evaluation).

g. Procurement

In the procurement of language assistance services, CAO will take reasonable efforts to ensure that any Request for Proposals or contract for language assistance services will specify responsibilities, assign liability, set pay rates, and provide for dispute resolution. For example, contracted language assistance service providers will have:

- Qualified and competent translators and interpreters, including second checks for translations;
- Mechanisms to ensure confidentiality and avoid conflicts of interest;
- Ability to meet the component's demand for interpreters;
- Ability to meet the component's demand for translation, including the delivery of the translation in editable electronic or other required formats;
- Reasonable cancellation fees;
- On-time service delivery;
- Acceptable emergency response time;
- Rational scheduling of qualified interpreters;
- Any requirements for tracking usage;
- Rapid rates of connection to interpreters via telephone, video, or electronically; and
- Effective complaint resolution when translation or interpretation errors occur.

Potential bidders for language assistance services contracts will also be required to commit to an adequate quality control process for all deliverables.

The CAO uses the services of Language Line LLC for training, translating and interpreting services under State of Ohio State Term Schedule #STS738.

h. Notification of the Availability of Language Assistance Services

CAO will make reasonable efforts to notify the public about its LEP policies and how to access language assistance services.

i. Performance Measurement and Evaluation

CAO will annually reassess and, where appropriate, update its Language Access Plan to ensure that the scope and nature of language assistance services provided under the plan reflect updated information on relevant LEP populations, component language assistance needs, changes in technology, and component experience under the plan. Further, CAO will take reasonable efforts to ensure that in-house and contract language services, directory of translated documents, signs, and web-based services meet current language needs.

j. Complaints

If an individual believes they have been discriminated against because of their race, color, or national origin, including limited English proficiency (LEP), by programs or activities receiving federal financial assistance, they may contact one of the following agencies. This information will be posted in areas with public access.

City of Columbus Community Relations Commission

111 East Broad St.
Suite #302
Columbus, OH 43205
Office : (614) 645-1993
Fax : (614) 645-1862
Hours: M-F 8:00 AM - 5:00 PM
Email: mlpierce@columbus.gov
<https://columbus.gov/Templates/Detail.aspx?ekfrm=30114>

Ohio Civil Rights Commission

Central Office
Rhodes State Office Tower
30 East Broad Street, 5th Floor
Columbus, OH 43215
Toll Free Number: 888-3278-7101
Phone: (614) 466-2785
Fax: (614) 644-8779
<http://crc.ohio.gov/FilingCharge.aspx>

Federal Coordination and Compliance Section – NWB

Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(888) 848-5306 - English and Spanish (español)
(202) 307-2222 (voice)
(202) 307-2678 (TDD)
<http://www.justice.gov/crt/filing-complaint>