



**ADMINISTRATIVE  
COMMUNICATIONS SYSTEM  
U.S. DEPARTMENT OF EDUCATION**

**DEPARTMENTAL DIRECTIVE**

**OCR/OCO: 1-102**

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*Distribution:*  
All Department of Education  
Employees

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**U.S. Department of Education Policy Directive to Ensure Meaningful  
Access to Federally Conducted Services, Programs and Activities for  
Individuals with Limited English Proficiency**

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For questions regarding this directive, please contact Lilian Dorka (OCR), or Edward Ohnemus (OCO.) Supersedes OCO: 1-102, Limited English Proficiency Plan dated 07/23/2008.

## I. Purpose and Authorization

The purpose<sup>1</sup> of this Policy Directive is to ensure ED takes reasonable steps to eliminate or reduce – to the maximum extent practical – limited English proficiency as a barrier to accessing existing Department services, programs, and activities.<sup>2</sup> This Policy Directive establishes guidelines, consistent with Title VI of the Civil Rights Act of 1964, its implementing regulations and guidance documents, and Executive Order 13166, for Department staff to follow when providing services to, or interacting with, individuals who are LEP.<sup>3</sup> It is the responsibility of the Department to take reasonable steps to ensure that communications between the Department and LEP individuals are not impaired as a result of the limited English proficiency of these individuals. Failure to provide timely language assistance services may result in a denial of meaningful access to Department services, programs, or activities that are accessible to non-LEP individuals.

In determining what are the reasonable steps the Department must take to provide meaningful access, this Policy Directive includes a practical application of the “four-factor analysis” set out in the U.S. Department of Justice (DOJ), *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 67 FR 41455,41461-64 (June 18, 2002), (hereinafter “2002 DOJ Guidance”), and issued in accordance with Executive Order 13166. The four-factor analysis is a flexible and fact-dependent standard that is used to determine the appropriate language assistance services to ensure an LEP individual has meaningful access to Department services, 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

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<sup>1</sup>This directive is intended only to improve the internal management of the Department’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. Because this document is intended for the internal management of the Department’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 Department and its components.

<sup>2</sup>To implement this Policy Directive, the Department developed a [Language Assistance Plan and Procedures to Ensure Meaningful Access to Federally Conducted Programs and Activities for Individuals With Limited English Proficiency](#), which is included in this directive. This Policy Directive is not intended to address the Department’s compliance with accessibility requirements pursuant to Sections 504 and 508 of the Rehabilitation Act of 1973 to ensure equal access to Department information, programs and services for persons with disabilities. See <http://www2.ed.gov/policy/gen/guid/assistivetech.html>.

<sup>3</sup>See Executive Order 13166, §1 “To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency.” <http://www.lep.gov/13166/eolep.pdf>; Attorney General Holder, Obligations Under Executive Order 13166 Memo to all federal agencies, February 17, 2011, §(4), “Ensure that agency staff can competently identify LEP contact situations and take the necessary steps to provide meaningful access.”[http://www.lep.gov/13166/AG\\_021711\\_EO\\_13166\\_Memo\\_to\\_Agencies\\_with\\_Supplement.pdf](http://www.lep.gov/13166/AG_021711_EO_13166_Memo_to_Agencies_with_Supplement.pdf).

Department's principal offices (PO)<sup>4</sup>; (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 PO and costs.<sup>5</sup>

## II. Policy

### A. Commitment to Equity

It is the policy of the U.S. Department of Education (Department) to take reasonable steps to provide limited English proficient (LEP) individuals with meaningful access to all Department services, programs, and activities.

### B. Language Assistance Measures

The Department and its POs as appropriate, have developed methods for identifying LEP individuals who contact the Department through correspondence (via U.S. mail, fax, e-mail, or Website inquiry), telephonically or in person, and who may need language assistance. Upon determining the need for language assistance services, the Department will take reasonable steps to ensure that all communication is conducted with the use of a bilingual staff member, or, when necessary in light of the content of the communication, a qualified contract interpreter or translator, or through telephonic or video interpretation with qualified interpreters. The Department will take reasonable steps to ensure that vital documents related to the Department's services, programs, and activities are translated into the most frequently encountered languages of those LEP individuals affected by the services, programs, and activities or are interpreted for the LEP individual. Department staff who interact with the public will be trained on language access policies and procedures, including how to access language assistance services and to identify and work with LEP individuals, interpreters, and translators. Department staff who encounter and identify LEP individuals should maintain a record<sup>6</sup> of their contact with them and the primary languages spoken.<sup>7</sup>

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<sup>4</sup>The term "Principal Office" is used in this document to refer to any of the 30 offices reflected in the Department's Organizational Chart. (See Department of Education's Organizational Chart and Coordinating Structure at <http://www2.ed.gov/about/offices/or/index.html>.)

<sup>5</sup><http://www.justice.gov/crt/about/cor/lep/DOJFinLEPFRJun182002.pdf>.

<sup>6</sup> See Template for Record of Contact with LEP Individuals at:

<https://share.ed.gov/oco/Pages/Resources%20for%20Working%20With%20LEP%20Constituents.aspx>.

<sup>7</sup>More detailed and specific language assistance measures are included and explained in the Department's Language Assistance Plan and Procedures to Ensure Meaningful Access to Federally Conducted Programs and Activities for Individuals With Limited English Proficiency, included in this directive. Each Department PO will develop its own LEP Assistance Plan and Procedures to address access relative to its individual services, programs, and activities.

### III. Applicability

The policies, procedures, and responsibilities of this Policy Directive apply to all Department staff, including contractors acting on behalf of the Department.

### IV. Definitions

- A. **Bilingual Staff Member** – A Department staff member who has demonstrated proficiency in both English and at least one other language. A bilingual staff member may speak or write directly to an LEP individual in a language other than English. For certain highly specialized or technical communication (such as, for example, assisting an LEP individual in understanding and completing a student financial aid form), a staff member must meet the Department's standards for language skills assessment (or other outside professional certification) before communicating with LEP individuals, or, in the alternative, secure the services of a qualified contract interpreter. A staff member who has only a rudimentary familiarity with a language other than English will not be considered a "bilingual staff member."
- B. **Qualified Translator or Interpreter** – An in-house or contracted translator or interpreter who has demonstrated competence to interpret or translate through court certification or through other professional language skills assessment certification.
- C. **Effective Communication** – Sufficient communication to provide the LEP individual with meaningful access to the services that otherwise are available to the public. Staff must take reasonable steps to ensure that communication with an LEP individual is as effective as communications with others when providing similar programs and services.
- D. **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. The Office of Communications and Outreach's Editorial Policy, Publications, and Printing Team (EPPP) is the Department's source for interpretation services for meetings, conference calls and similar activities.
- E. **Language Access Coordinator** – The designated staff person responsible for the oversight, training, performance, coordination, and implementation of all aspects of the agency's language assistance services to LEP individuals. For the Department, this function resides with the Editorial Policy, Publications and Printing Team within the Office of Communications and Outreach.
- F. **Language Assistance Services** – All oral and written language services (i.e., interpretation and translation services) needed to assist LEP individuals

- in communicating effectively with staff, and to provide LEP individuals with meaningful access to, and an equal opportunity to participate fully in, the services, activities, or programs administered by the Department.
- G. **Limited English Proficient (LEP)** – Individuals whose primary language is not English and who have limited ability to write, read, speak, or understand English. LEP individuals may be competent in certain types of communication in English (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific: an individual may possess sufficient English language skills to function in one setting but may find these skills are insufficient in other situations. Note: if an individual identifies him or herself as an LEP individual needing services, the Department typically should accept that designation and provide the appropriate services.
- H. **Nationally Prominent Languages** – The top six nationally prominent languages spoken by LEP persons according to recent government statistics from the American Community Survey (ACS) are Spanish, Chinese, Vietnamese, Korean, Tagalog, and Russian.<sup>8</sup>
- I. **Primary Language** – An individual's native tongue or the language in which an individual most effectively communicates. Staff should avoid assumptions about an individual's primary language. For example, not all individuals from predominantly Spanish-speaking countries speak Spanish fluently. Staff should make every effort to ascertain an individual's primary language to ensure effective communication.
- J. **Translation** – The replacement of written text from one language (source language) into an equivalent written text in another language (target language).
- K. **Vital Document** – Paper or electronic material that is critical for access to the Department's services, programs, and activities, or contains information about procedures and processes required by law. Classification of a document as "vital" depends upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP individual if the information in question is not provided accurately or in a timely manner.<sup>9</sup>

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<sup>8</sup>These six languages were the most commonly spoken languages in the United States where the language group spoke English less than "well," based on American Community Survey's multi-year data for 2006—2010, [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_10\\_5YR\\_B16001&prodTy](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_10_5YR_B16001&prodTy).

<sup>9</sup>This determination is made by the individual POs. See Sec III (B)(1) of the accompanying document titled: *U.S. Department of Education Language Assistance Plan and Procedures to Ensure Meaningful Access to Federally Conducted Services, Programs and Activities for Individuals With Limited English Proficiency*.

- L. **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 unreasonably restricted, delayed, or inferior as compared to access to programs or activities provided to English proficient individuals.

## V. Responsibilities

### Language Access Working Group

The Department will establish and maintain a Language Access Working Group (Working Group) that reflects the Department's organizational structure and whose membership is representative of Department services, programs, and activities, as appropriate. The Working Group will be responsible for implementing this Directive. The Department's Language Access Working Group, composed of representatives from each of the Department's POs, will monitor the implementation of the Department's Policy Directive and Plan as well as the implementation of corresponding PO plans. The Working Group shall conduct annually an evaluation of the Department's Policy Directive and Plan and make recommendations to the Department's LEP Coordinator for appropriate revisions. The Working Group will establish a schedule to periodically evaluate and update agency LEP services and LEP policies, plans, and protocols. The Office of the Secretary shall designate a Language Access Coordinator who will lead this Working Group and report key issues and information as appropriate to the Secretary or his designee.

## VI. Procedures and Requirements

The attached Department of Education Language Assistance Plan and Procedures to Ensure Meaningful Access to Federally Conducted Services, Programs, and Activities for Individuals With Limited English Proficiency (LEP Plan), contains the procedures and requirements to be followed by the Department as a whole and to each individual program office (PO) in carrying out responsibilities under Executive Order 13166.

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## **Appendix A: Procedures for U.S. Department of Education Language Assistance Plan and Procedures to Ensure Meaningful Access to Federally Conducted Services, Programs, and Activities for Individuals with Limited English Proficiency**

### **INTRODUCTION**

The Department's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access. Consistent with Title VI of the *Civil Rights Act of 1964*, the Title VI implementing regulations and guidance documents, Executive Order 13166, and the Department's Policy Directive OCR/OCO: 1-102, this Department Plan and Procedures (Plan) is intended to provide Department-wide guidance on the reasonable steps the Department is taking to provide LEP individuals with meaningful access to Department services, programs, and activities that otherwise are available to the public, in a timely and effective manner. Each of the Department's POs will develop Language Assistance Plans and Procedures (LEP plans) that consider and respond to the sections addressed below.

The Department's Language Access Working Group, composed of representatives from each of the Department's POs, will monitor the implementation of the Department's Policy Directive and Plan as well as the implementation of corresponding PO plans. The Working Group shall conduct annually an evaluation of the Department's Policy Directive and Plan and make recommendations to the Department's LEP Coordinator for appropriate revisions.

### **LANGUAGE ASSISTANCE PLAN AND PROCEDURES**

#### **1. Department's Interaction With LEP Individuals:**

The Department's mission is carried out by its approximately 30 POs,<sup>10</sup> which are dedicated, among other things, to:

- Establishing policies on federal financial aid for education, and distributing as well as monitoring those funds;
- Collecting data on America's schools and disseminating research;
- Focusing national attention on key education issues; and
- Prohibiting discrimination and ensuring equal access to education.<sup>11</sup>

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<sup>10</sup>See Department of Education's Organizational Chart and Coordinating Structure at <http://www2.ed.gov/about/offices/or/index.html>.

<sup>11</sup>See "About ED: Overview and Mission Statement" at: <http://www2.ed.gov/about/landing.jhtml>

Given these widely varied activities and the specific missions, programs, and services of the Department's many offices, the type and frequency of contact and interaction with external customers, such as students, parents, and community members, vary across these offices. Likewise, their contact and interaction with LEP customers vary as well. In view of this, each Department PO will take the reasonable steps discussed below to ensure that LEP individuals have meaningful access to all services, programs, and activities otherwise available to the public.

- A. Each PO of the Department will examine its mission and the services, programs, or activities it offers to identify how and to what extent its work relates to, depends upon, or involves – or should involve – contact with or services to the public.
  - B. To the extent that the Department makes such services, programs, and activities available to the public, the Department will take reasonable steps to ensure meaningful access is available to the LEP public as well. Accordingly, each PO will examine the types of public interactions, either direct or indirect, that it carries out and how they are carried out. All POs will take reasonable steps to ensure that LEP individuals have meaningful access to these services, programs, and activities and information about them through face-to-face, telephonic, written, and electronic contact. For example, telephone numbers regularly used by the public, public outreach activities, publications and letters, and program information available through ED.gov should be accessible to LEP individuals.
  - C. As the frequency, type, and extent of these contacts and interactions with LEP customers will vary across the Department's offices, each PO will develop a systematic method for tracking such interactions to ensure they are handled appropriately and effectively.<sup>12</sup>
2. **Identification and Assessment of LEP Communities: *A Profile of the Department's Interactions With Its LEP Customers***

- A. **Profile of the Department's LEP Customers:** The Department's LEP customers include parents or guardians of students in the public schools; parents or guardians of students in postsecondary institutions; community groups; and others. The majority of the Department's LEP customers speak Spanish. However, different Department POs sometimes have interactions with individuals who speak other languages.

In the past, the Department has not had a systematic way of maintaining information on contacts with LEP customers. In order to effectively address the communication needs of our LEP customers and ensure

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<sup>12</sup>A template for recording contact with LEP individuals has been developed and is available at: <https://share.ed.gov/oco/Pages/Resources%20for%20Working%20With%20LEP%20Constituents.aspx>.

reasonable steps are taken so that they are provided meaningful access to Department services, programs, and activities, each PO will develop a method or process for gathering information about the number and frequency of encounters with LEP customers.

**B. Types of interactions:** Such a method or process will enable each PO to track all instances where the PO has provided translation and/or interpretation services and in what languages. Each PO's process will also include a yearly review of costs for telephonic interpretation services and other contracted services for interpreters and translators.

**C. Nationally prominent languages:** On a national level, the Department considers the languages most commonly spoken by LEP individuals as those identified by the American Community Survey (ACS.) According to the ACS 2006-2010 multi-year data, the top six languages other than English spoken at home by LEP individuals age five years or over are Spanish, Chinese, Vietnamese, Korean, Tagalog, and Russian.<sup>13</sup> To ensure that this list remains current, the Department will update this list at least every two years. The update will reflect current demographic information based on multi-year ACS data. In addition, each PO that conducts all or part of its business through regional offices, or conducts state- or region-centered activities and outreach, should also refer to the student language information available through the Department's *EdFacts* data or review state-specific census data.<sup>14</sup> Each PO will use this data to develop information about the language groups that the PO encounters through regional or targeted activities. Each PO should consider whether additional languages are appropriate in light of its particular area of work in education. Where translated material is targeted at an audience that includes LEP language groups other than Spanish, Chinese, Vietnamese, Korean, Tagalog, and Russian, each PO should consider into what additional language(s) the material should be translated. Translated material directed to particular audiences need not be translated to other audiences. For example, when a PO produces material targeted at an American Indian or Alaska Native tribe or village, there is no need to translate the same material into Chinese, Korean, or Vietnamese.

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<sup>13</sup>[http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_10\\_5YR\\_B16001&prodTy](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_10_5YR_B16001&prodTy)

<sup>14</sup>Based on data reported by state departments of education to the Department, several languages (Arabic, Haitian Creole, and Hmong) were spoken more commonly among LEP students than two of the languages (Korean or Russian) on the ACS list. POs should consider this information when conducting outreach in specific states or regions. In addition, POs should consider including Arabic, Haitian Creole, and Hmong among their predominant languages for translation purposes, if appropriate. (This state-reported data are maintained in the Department's *EDFacts* data repository. Data cited above is as of July 2011.) (Appendix A contains information on the top 10 most common languages spoken by state. Appendix A can be found at:

<https://share.ed.gov/oco/Pages/Resources%20for%20Working%20With%20LEP%20Constituents.aspx>.)

**D. Point of First Contact—Identification of LEP Individuals:** Department staff at the point of first contact with an LEP individual shall make an initial assessment of the need for language assistance services, and contact the appropriate PO, if different from the first point of contact, to arrange for such services if they are needed to effectively communicate with the individual. Each PO will determine the most effective way to identify and document an individual's primary language.

In most instances the first contact is likely to be by telephone or via e-mail. To identify the individual's primary language by telephone, PO staff may rely on self-identification by the LEP individual. If there is confusion about the LEP individual's primary language, staff can use bilingual staff members, the Department's Language Assistance Volunteers<sup>15</sup>, or the telephone interpretation service<sup>16</sup> to attempt to identify the individual's language. To identify the individual's primary language by e-mail, PO staff may rely on self-identification by the LEP individual if that was provided by the individual. Otherwise, staff can use bilingual staff members, the Department's Language Assistance Volunteers, or if necessary, a contracted translation service.

During telephone or in-person contact, if relatives, friends, acquaintances, neighbors, or children are present with the individual, staff may rely on these individuals to conduct a first inquiry as to the primary language of the LEP individual. However, staff generally should not rely on these individuals to provide interpretation services because this could result in a breach of confidentiality, a conflict of interest, or an inadequate interpretation.

To identify an individual's primary language, staff may use one or more of the following:

- 1) Self-identification by the LEP individual or companion;

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<sup>15</sup>The Department maintains a list of Department staff, Language Assistance Volunteers, who have volunteered to assist in communications and protocols involving languages other than English. The volunteers can provide assistance in some 30 languages. These volunteers can be called upon for informal, non-critical assistance in oral and written communications. (A list of these volunteers can be accessed at

<http://connected.ed.gov/index.cfm?cid=906ECC3E-5C68-4298-9ED1-46B602D0AB0C>.) Unless other arrangements have been specifically coordinated through and agreed upon by the Office of Communications and Outreach, (e.g., Office of Federal Student Aid's Spanish language assistance contract) official Department communications, such as letters or publications, in languages other than English should be coordinated through the Department's translation management services provided by the Office of Communications and Outreach's Editorial Policy, Publications and Printing Team.

<sup>16</sup>The Department now has a telephonic interpretation contract in place that every PO can use to obtain these services. Directions for use of this service, also provided by the Office of Communications and Outreach's Editorial Policy, Publications and Printing Team, can be found at:

<http://connected.ed.gov/index.cfm?cid=906ECC3E-5C68-4298-9ED1-46B602D0AB0C>.

- 2) Language identification poster displayed in the reception or intake area;
- 3) Verification by a bilingual staff member;
- 4) In-person contracted interpreter;
- 5) "I Speak" Cards - An example of such a card from the U.S. Census Bureau is available at:  
<http://www.justice.gov/crt/lep/resources/ISpeakCards2004.pdf>;
- 6) Telephonic or video interpretation services; or
- 7) Other effective measures, such as the Department's Language Assistance Volunteers, when appropriate.
  - a. **Staff Communication While in the Field:** PO staff who work on-site in locations outside the Department offices will make every effort to identify potential LEP individuals with whom they may come in contact, prior to the site visit, and prepare accordingly. If staff encounter LEP individuals who need interpretation services and who were not identified prior to the on-site visit, staff will ask the LEP individuals to identify their language using an "I Speak" card or other effective resource and will arrange for interpretation services either while on site or as soon as possible thereafter.
  - b. **Documentation and Reporting:** PO staff should utilize the method or process developed by the PO, as discussed in Section II-A, above, to document the contact. This information should be reported to the PO's Language Access Working Group representative at least twice per year.

### 3. Language Assistance Procedures

All Department POs will take reasonable steps to respond in a timely and effective manner to LEP individuals who need assistance or information. LEP individuals shall be advised that they may choose to either: use the services of an interpreter provided by the Department at no cost to them; or, at their own expense, secure the assistance of an interpreter of their own choosing. To ensure that the language assistance services are accurate, meaningful, and effective, each PO will, on a case-by-case basis, determine which mix of services (interpretation and translation) should be provided. To accomplish this, each Department PO will make reasonable efforts to ensure that:

- LEP individuals who call or visit the PO receive prompt interpretation or translation from a staff person who has been identified as qualified to

provide language assistance in the language of the customer or through a telephonic interpretation service;

- If PO staff encounter LEP individuals during a site visit, staff will arrange for the assistance of an available bilingual staff person, a Department Language Assistance Volunteer, or the contracted telephonic interpretation service provider; and
- LEP individuals who are unable to access documents written in English receive a translation or oral interpretation, depending on the importance of the document and the needs of the customer.

#### A. Oral Language Services (Interpreters)

1. Department POs will not require LEP individuals to provide their own language assistance services when communicating with the Department. Oral interpretation services will be provided by each PO at no cost to the LEP individual. Generally, the PO will need to arrange for oral language assistance to LEP individuals in face-to-face and telephonic contact through the use of bilingual staff, Department Language Assistance Volunteers, or contract interpretation services, including telephonic interpretation services, as appropriate. LEP individuals who wish to select their own interpreters will bear the responsibility for costs.
2. Each PO will take reasonable steps to ensure that it provides interpretation services through individuals whose level of fluency and comprehension is appropriate to the specific nature, type, and purpose of the information at issue. In addition, each PO will take reasonable steps to ensure that these individuals understand their ethical obligations, and must emphasize confidentiality, impartiality, accuracy, avoidance of a conflict of interest, refraining from communicating with the LEP individual beyond that which is necessary to carry out professional duties, and not adding to, editing, summarizing, or embellishing the LEP individual's statement.<sup>17</sup>
3. Depending on the type of the language assistance services needed, the PO may use bilingual staff, including the Department's Language Assistance Volunteers. When the services of bilingual Department staff are not available or appropriate and there is a need for an outside interpreter, the PO may seek interpretation assistance from a contracted interpreter through the Office of Communications and Outreach.
4. OCO through the Department's contract for interpreter services will engage interpreters who have demonstrated their competence to interpret

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<sup>17</sup>See 2002 DOJ Guidance, 67 FR 41461-41464

through certification or other means, and that they understand and follow confidentiality, professional responsibility, and impartiality rules.<sup>18</sup> The Department has a contract with a professional agency to provide qualified telephonic interpretation services as necessary.<sup>19</sup>

5. Except in unusual circumstances, the Department should not rely on family members, neighbors, friends, acquaintances, bystanders, and children to provide interpreter services.<sup>20</sup>

## B. Written Language Services (Translation)

1. 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 individual 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 individual POs, which are in the best position to evaluate and articulate their unique circumstances and services within their language access planning materials. Documents that could be classified as “vital” generally fall into two broad categories: specific written communication regarding a matter between an individual and a PO; and, documents primarily geared towards the general public or a broad audience.
  - a. With respect to specific written communication regarding a matter between an individual and a PO, the purpose of translating such written communication is to provide the LEP individual with meaningful access to communication that is critical to understanding the matter at hand.

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<sup>18</sup>See 2002 DOJ Guidance, 67 FR 41461 - 41464

<sup>19</sup>Information about this contract and a user guide for accessing telephonic language assistance resources is available at:

<https://share.ed.gov/oco/Pages/Resources%20for%20Working%20With%20LEP%20Constituents.aspx>.

This information should be distributed by each PO to every employee whose duties routinely include contact with members of the public.

<sup>20</sup>While an LEP individual may look to bilingual family members or friends or other persons with whom they are comfortable for language assistance, in most situations the Department should have available Department supplied interpretation services. For example, family members may not be available when and where they are needed. Alternatively, an individual may feel uncomfortable revealing or describing sensitive, confidential, or potentially embarrassing family, or financial information to a family member, friend, or member of the local community. Similarly, there may be situations where the Department's own interests justify the provision of an interpreter regardless of whether the LEP individual also provides his or her own interpreter. For example, where precise, complete and accurate translations of information are critical, Department staff might decide that providing an independent qualified interpreter is necessary. (See 2002 DOJ Guidance, 67 FR 41462-41463.)

Each PO should determine which specific written communications between an LEP individual and the PO should be considered “vital.” If a PO considers a document “vital” it should be translated consistent with the “four-factor analysis” described in the 2002 Department of Justice guidance.<sup>21</sup>

Written communications with an individual that may be considered “vital” documents include, for example:

- notices, letters, or forms pertaining to an individual’s eligibility for Department services or the reduction, denial, or termination of services or programs;
  - letters of determination with respect to specific individual matters before the PO;
  - letters or forms that require a response from an LEP individual;
  - notices, letters, or forms related to an LEP individual’s rights, or responsibilities;
  - complaint forms, including an online electronic complaint form, if feasible; and
  - consent forms for the disclosure of personally identifiable information.
- b. With respect to documents intended for public outreach or a broad audience, each PO should ensure that the documents it considers “vital” are translated where a significant number or proportion of the population eligible to be served, or likely to be directly affected, by the PO’s services, programs, or activities needs access to the information in a language other than English in order to be effectively informed of or to participate in the program or activity. POs should consider the nationally prominent languages spoken by LEP individuals as a guide for prioritizing languages for translation of vital documents.<sup>22</sup> Each PO may want to consider translation into other languages, as necessary, based on regional demographics or subject matter targeted to specific audiences.

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<sup>21</sup>See 2002 DOJ Guidance, 67 FR 41455,41461-64 (June 18, 2002).

<sup>22</sup>The nationally prominent languages which the Department has prioritized are: Spanish, Chinese, Vietnamese, Korean, Tagalog, and Russian. These are the top six languages spoken at home by LEP persons age 5 years or over according to American Community Survey (ACS) 2006-2010 multi-year data. (See Section II C.)

Documents intended for public outreach or a broad audience may include, for example:

- notices regarding the availability of free language assistance services for LEP individuals;
- notices, letters, or forms pertaining to eligibility for Department services or the reduction, denial, or termination of services or programs;
- notices, letters, or forms related to individual rights, requirements, or responsibilities;
- complaint forms, including the online electronic complaint form, if feasible;
- consent forms for the disclosure of personally identifiable information;
- other documents critical to understanding and exercising federally protected rights, which may include certain external policy documents or an explanation of such policies provided to the public about federally protected rights or other individual benefits or services. For example, a “Question and Answer” document explaining federally protected rights to benefit from an educational environment free from discrimination, generally, would be considered vital. However, Q & A documents on the Department’s website explaining details of a grant competition directed to state educational agencies generally would not be considered vital.

Under most circumstances, materials primarily directed to current or prospective grantees, contractors, attorneys, or other professionals will not be considered “vital” for these purposes.

2. For “vital” documents published in the Federal Register, the PO will determine whether to include, as an appendix to the document, a statement in the nationally prominent languages that language assistance services are available. (See “Notice to Limited English Proficient Individuals” statement under the “Notification” section of this document.)
3. For “vital” documents accepting public comment that are not published in the Federal Register (e.g., significant guidance documents), the PO will determine whether to include a statement in the nationally prominent

languages that language assistance services are available. (See “Notice to Limited English Proficient Individuals” statement under the “Notification” section of this document.)

4. For long documents, the PO will determine whether a complete translation is necessary, or whether translation of vital information contained within the document provides adequate notice of the document’s contents. Under some circumstances, the documents may not need to be translated in their entirety. At a minimum, the PO will need to provide an accurate oral interpretation by a qualified interpreter of the important information in the English version until a written translation can be provided.
5. For those languages that are less prevalent, or for LEP individuals who are not proficient in their own language, the PO will advise LEP individuals, in a language they understand, and orally, as appropriate, how they can get assistance in understanding “vital” documents.
6. Department POs will determine on an ongoing basis whether new documents need to be translated and made accessible for LEP individuals, and will also consider whether other pre-existing vital documents should be translated into prominent languages other than English.
7. Process for Translation of Documents: Unless other arrangements have been specifically established in coordination with the Office of Communications and Outreach’s Editorial Policy, Publications, and Printing Team (EPPP), all PO publications will be translated through EPPP. EPPP will manage translation services for all documents in requested languages, according to a policy that guarantees that translated publications receive the same high-quality review as publications in English. EPPP must approve all translations, and all translations must be completed through the three-part process outlined by EPPP and provided below. In addition, EPPP is the Department’s source of interpretation services for meetings, conference calls, and similar activities.

#### **Department’s Translation Policy<sup>23</sup>**

- a. After EPPP has approved a publication for translation, it sends the publication to a contractor, who is a certified translator, for an estimate of cost and time to complete the translation. At the same time, EPPP sends the publication to a second contractor, a reviewer, who is both a native speaker of the target language and an editor, for an estimate of cost and time to review the translation.

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<sup>23</sup>The Department’s official policy for translating documents is governed by the *Guide to Publishing at the U.S. Department of Education*, posted at: <http://www2.ed.gov/internal/PubGuide.pdf>

When the translation is complete, this person will review it for linguistic accuracy and completeness.

- The publication that is sent to the translator and reviewer must be the final version of the original publication because only this version may be translated. It would be a waste of time and money to send a publication out for estimate or translation that is not in its final version.
  - POs may send publications to their own translator, but this is not recommended unless the translator is a certified<sup>24</sup> professional translator. Before contracting with a translator other than those recommended by EPPP, POs should discuss this option with EPPP's translation manager.
  - Before beginning work on a translation, the translator must receive a purchase order, signed by the PO's executive officer, for the amount of the estimate. Generally, it is OCO's translation manager who will transmit the completed purchase order to the translator. Payment is made upon certification of the completion of the translator's work by OCO's translation manager.
- b. When the translation is complete, EPPP sends the translation to the reviewer, who must receive a purchase order in the amount of the estimate before beginning the review. Actual payment is made upon certification by OCO's translation manager of completion of the reviewer's work. POs may not use a reviewer other than those approved by EPPP.
- c. When the reviewer has completed the review and the changes have been made to the copy (either by the reviewer or the PO), EPPP gives the manuscript to a Department employee (or other appropriate individual if no ED employee is proficient in the requested language) who is on the approved list of native speakers of the language in which the publication is written, for a final internal Department review. Only those employees or individuals approved by EPPP may be selected to review these translations. These employees perform translation reviews as part of their normal workload.

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<sup>24</sup>A certified translator is one whose competency is assured based upon professional qualifications. Appropriate professional qualifications include a Master of Arts degree in translation, or accreditation from the American Translators Association, or other recognized accrediting body.

- The purpose of this final review is to ensure that linguistic expressions and the policies particular to the Department and the federal government have been translated according to the meanings intended in the original document. This second review also ensures that the document was completely translated and that the translated publication is of high quality.
- If the internal reviewer (or other appropriate individual) disagrees substantially with the external reviewer's draft, EPPP will ensure the two reviewers contact each other for the purpose of resolving their differences.
- The PO incorporates the final changes. EPPP proofs minor changes, and the external reviewer proofs major changes. The document is then sent to print.

### **C. Notification of Availability of Language Assistance Services**

Over the last few years, the Department has engaged in extensive outreach to increase awareness by LEP persons of its services, programs, and activities. Several POs have formed partnerships with parent, community, and other organizations in order to disseminate important information about access to Department services and benefits for LEP parents and students. To ensure that LEP individuals have access to important Department information and available language assistance services, the Department will include the notice below in each of the nationally prominent languages with respect to the following:

1. The Department's main Web page and each individual PO Web page;
2. The English version of a PO's "vital" documents intended for public outreach or a broad audience (e.g., brochures, booklets.)

#### ***Notice to Limited English Proficient Individuals***

If you have difficulty understanding English, you may request language assistance services for Department information that is available to the public. These language assistance services are available free of charge. If you need more information about interpretation or translation services, please call 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-877-8339), or email us via the following link to our customer support team:

[Ed.Language.Assistance@ed.gov](mailto:Ed.Language.Assistance@ed.gov)

Or write to<sup>25</sup>:

U.S. Department of Education  
Information Resource Center  
LBJ Education Building  
400 Maryland Ave., S.W.  
Washington, DC 20202

Each PO plan should include PO-specific telephone, mailing, and e-mail address information in the above statements.

#### 4. Staff Training

- A. The Department will include in all new employee orientation packets general information about Department and PO responsibilities to help ensure that LEP persons have meaningful access to Department services, programs, and activities. Specific materials to be included in this packet include: the name and contact information for the Department's Language Access Coordinator; a list of all of the PO Working Group Representatives; and a copy of the Department's LEP Directive, and Plan.
- B. The Department's LEP Working Group will develop training materials that address the main components of the Department's LEP Directive and Plan. Each PO will supplement this training with information specific to its plan and procedures. The PO will ensure that all staff who have potential contact with LEP individuals receive this training annually. PO supervisors and managers must be aware of and understand the PO plan so that they can reinforce its importance and ensure its implementation by PO staff. Each PO will include information and/or training as part of the orientation for its new employees so that they understand the nature and scope of language assistance services and the specific procedures through which such services can be accessed.
- C. The PO's information or training module should cover the nature and scope of language assistance services in light of the PO's mission and services, programs, and activities. The training module should also include the specific procedures through which each employee can access the services to provide LEP individuals with meaningful access to the PO's services, programs and activities. The training module should include, but is not be limited to:
  1. How to identify an LEP individual;
  2. How to identify the language needs of an LEP individual;

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<sup>25</sup>The *Notice to Limited English Proficient Individuals* contained above has already been translated into the six most nationally prominent languages and is available through OCO for use by any PO, at: <https://share.ed.gov/oco/Pages/Resources%20for%20Working%20With%20LEP%20Constituents.aspx>

3. How to track and maintain information about contact with LEP customers and to whom within the PO to report that information;
4. Information about the Department's Language Assistance Volunteers Program;
5. Information about the Department's policy for translation of documents;
6. How to access and provide language assistance services through bilingual employees, in-house interpreters and translators, or contracted personnel;
7. Information about professional responsibility with respect to LEP individuals, such as interpreter ethics, confidentiality, and qualifications; and
8. How to work effectively with an interpreter in person or on the telephone.

## 5. Human Resources

- A. Each PO will periodically (at least every two years) conduct an assessment of the composition of existing staff by languages spoken, level of oral and written proficiency, job title, and office.
- B. When considering hiring criteria and the assessment referenced in Section V-A above, each PO will assess the extent to which non-English language proficiency is necessary to fulfill the PO's mission. In the event that such proficiency is an essential element of the specific position or function to be filled by the hiring, the PO may need to contact the Language Testing and Assessment Unit, Federal Bureau of Investigation (FBI), through the Department's Human Capital and Client Services Office within the Office of Management, to request language assessments of the applicants.<sup>26</sup>
- C. Each PO will also determine whether the hiring of employees with certain language proficiency, although not necessary in order to carry out the essential functions or elements of the job, would benefit the PO's mission. If other language proficiency would benefit the PO's mission, when authorized to hire, the PO may give attention to, or factor in, the hiring of bilingual staff.

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<sup>26</sup>The FBI's Testing Unit will conduct up to 10 assessments per year, per federal agency, free of charge. The FBI will provide the Department with a Report of Results, which will provide scores of the applicants' language proficiency based on the Interagency Language Roundtable (ILR) skill-level descriptions ([www.govtilr.org](http://www.govtilr.org)).

## 6. Performance Measurement and Plan Evaluation

### A. Effectiveness of This Plan

The Department's Language Access Coordinator will coordinate implementation of the Department's LEP Directive and Plan. In addition, each PO's Working Group Representative will annually assess the operations and effectiveness of the PO's language assistance services by:

- identifying the primary channels of contact with LEP community members (whether telephonic, in person, correspondence, Web-based, etc.);
- reviewing the information reported by PO staff about the non-English languages encountered;
- reviewing the PO's services, programs, and activities for language accessibility;
- determining whether documents are translated as set forth in this plan (and the PO-specific plans);
- reviewing the PO's plan and its procedures;
- reviewing the use and annual cost of translation and interpretation services, including a review of 1) all of the "vital" documents that the PO translated and the language(s) into which those documents were translated; and 2) all of the "vital" documents that included a statement in the nationally prominent languages that language assistance services are available; and
- consulting with outside stakeholders, as appropriate, and feedback from the LEP communities.

Each PO working group representative will report to the Department's Language Access Coordinator on its annual assessment, as noted above. Each PO representative will annually brief the PO's senior management on his/her assessment, and the Working Group's recommendations, if any, of the PO's efforts to provide meaningful access to its programs and services to its LEP customers.

## B. Feedback From LEP Communities and Other Stakeholders

As appropriate, each PO will conduct outreach to LEP communities<sup>27</sup> and other stakeholders to gather feedback about the effectiveness of the PO's plan to provide access to LEP individuals and involve outside entities or individuals in the plan evaluation process.

## C. Plan and Procedures Modifications

Each PO will implement necessary modifications for improving quality and timely access to its services, programs, and activities by LEP individuals, and to ensure timely and consistent implementation of its plan's terms.

## 7. Budget

Each PO will ensure that its budget planning process considers language assistance services discussed in its PO plan, and that adequate funds are available to carry out that plan. In addition, each PO representative will include in his/her annual briefing to the PO's senior management information about prior year expenses for translation and interpretation services.

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<sup>27</sup>Information about the most the common languages spoken by state could be helpful in reaching out to specific communities. For more information, see at:  
<https://share.ed.gov/oco/Pages/Resources%20for%20Working%20With%20LEP%20Constituents.aspx>.