

## Department of Justice Guidance on Developing a Language Access Plan

In 2002, the US Department of Justice (DOJ) published language access guidance in the Federal Register.<sup>1</sup> The guidance identifies four factors that courts can use to determine the language access needs for the communities these courts serve.<sup>2</sup> Later, the guidance identifies specific steps courts may take when completing a language access plan (referred to as an LEP plan by the DOJ). SCAO, with the Limited English Proficiency Steering Committee, developed Model Local Administrative Order 42 based on this guidance. These specific steps may help a court complete the Model LAO 42. A three-page excerpt from that portion of the DOJ guidance appears below.

“The following five steps may be helpful in designing an LEP plan and are typically part of effective implementation plans.

### *(1) Identifying LEP Individuals Who Need Language Assistance*

“The first two factors in the four-factor analysis require an assessment of the number or proportion of LEP individuals eligible to be served or encountered and the frequency of encounters. This requires recipients to identify LEP persons with whom it has contact.

“One way to determine the language of communication is to use language identification cards (or “I speak cards”), which invite LEP persons to identify their language needs to staff. Such cards, for instance, might say “I speak Spanish” in both Spanish and English, “I speak Vietnamese” in both English and Vietnamese, etc. To reduce costs of compliance, the Federal government has made a set of these cards available on the Internet. The Census Bureau “I speak card” can be found and downloaded at <http://www.lep.gov/ISpeakCards2004.pdf>. When records are normally kept of past interactions with members of the public, the language of the LEP person can be included as part of the record. In addition to helping employees identify the language of LEP persons they encounter, this process will help in future applications of the first two factors of the four-factor analysis. In addition, posting notices in commonly encountered languages notifying LEP persons of language assistance will encourage them to self-identify.

### *(2) Language Assistance Measures*

“An effective LEP plan would likely include information about the ways in which language assistance will be provided. For instance, recipients may want to include information on at least the following:

- Types of language services available.
- How staff can obtain those services.
- How to respond to LEP callers.
- How to respond to written communications from LEP persons.

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<sup>1</sup> The full guidance can be found at <http://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf>.

<sup>2</sup> The factors include the number and proportion of LEP persons served or encountered, the frequency of contact with the LEP persons, the nature and importance of the court’s work, and the resources available to overcome language barriers.

- How to respond to LEP individuals who have in-person contact with recipient staff.
- How to ensure competency of interpreters and translation services.

### *(3) Training Staff*

“Staff should know their obligations to provide meaningful access to information and services for LEP persons. An effective LEP plan would likely include training to ensure that:

- Staff know about LEP policies and procedures.
- Staff having contact with the public (or those in a recipient’s custody) are trained to work effectively with in-person and telephone interpreters.

“Recipients may want to include this training as part of the orientation for new employees. It is important to ensure that all employees in public contact positions (or having contact with those in a recipient’s custody) are properly trained. Recipients have flexibility in deciding the manner in which the training is provided. The more frequent the contact with LEP persons, the greater the need will be for in-depth training. Staff with little or no contact with LEP persons may only have to be aware of an LEP plan. However, management staff, even if they do not interact regularly with LEP persons, should be fully aware of and understand the plan so they can reinforce its importance and ensure its implementation by staff.

### *(4) Providing Notice to LEP Persons*

“[...] Recipients should provide this notice in a language LEP persons will understand. Examples of notification that recipients should consider include:

- Posting signs in intake areas and other entry points. When language assistance is needed to ensure meaningful access to information and services, it is important to provide notice in appropriate languages in intake areas or initial points of contact so that LEP persons can learn how to access those language services. This is particularly true in areas with high volumes of LEP persons seeking access to certain health, safety, or law enforcement services or activities run by DOJ recipients. For instance, signs in intake offices could state that free language assistance is available. The signs should be translated into the most common languages encountered. They should explain how to get the language help.<sup>3</sup>

- Stating in outreach documents that language services are available from the agency. Announcements could be in, for instance, brochures, booklets, and in outreach and recruitment information. These statements should be translated into the most common languages and could be “tagged” onto the front of common documents.

- Working with community-based organizations and other stakeholders to inform LEP individuals of the recipients’ services, including the availability of language assistance services.

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<sup>3</sup> The Social Security Administration has made such signs available at <http://www.ssa.gov/multilanguage/langlist1.htm>. These signs could, for example, be modified for recipient use.

- Using a telephone voice mail menu. The menu could be in the most common languages encountered. It should provide information about available language assistance services and how to get them.
- Including notices in local newspapers in languages other than English.
- Providing notices on non-English language radio and television stations about the available language assistance services and how to get them.
- Presentations and/or notices at schools and religious organizations.

*(5) Monitoring and Updating the LEP Plan*

“Recipients should, where appropriate, have a process for determining, on an ongoing basis, whether new documents, programs, services, and activities need to be made accessible for LEP individuals, and they may want to provide notice of any changes in services to the LEP public and to employees. In addition, recipients should consider whether changes in demographics, types of services, or other needs require annual reevaluation of their LEP plan. Less frequent reevaluation may be more appropriate where demographics, services, and needs are more static. One good way to evaluate the LEP plan is to seek feedback from the community. In their reviews, recipients may want to consider assessing changes in:

- Current LEP populations in service area or population affected or encountered.
- Frequency of encounters with LEP language groups.
- Nature and importance of activities to LEP persons.
- Availability of resources, including technological advances and sources of additional resources, and the costs imposed.
- Whether existing assistance is meeting the needs of LEP persons.
- Whether staff knows and understands the LEP plan and how to implement it.
- Whether identified sources for assistance are still available and viable. In addition to these five elements, effective plans set clear goals, management accountability, and opportunities for community input and planning throughout the process.”