

Date: April 25, 2005

Procedural Directive 2005 - #03

Division of Employment Services

Subject: DoES Language Assistance Plan for Serving Limited English Proficient Customers

Policy

The Division of Employment Services (DoES) will take reasonable steps to ensure that people who are not proficient in English receive, free of charge, the language assistance necessary to afford them meaningful access to effectively participate in and benefit from all DoES programs, services and information.

Background

New York State has over 19 million residents, over nine million of whom are in the labor force. Most of these individuals can read, write, speak and understand English very well. However, over one million members of the State's resident labor force may have a language barrier, based upon information collected through U.S. Census questionnaires. If individuals have a limited ability to read, write, speak or understand English, they are considered limited English proficient (LEP).

The following table highlights the primary languages spoken by the State's labor force participants with potential language barriers:

LANGUAGE	Number of Labor Force Participants with Limited English Proficiency	Percentage of All LEP Labor Force Participants
Spanish	527,000	50 %
Chinese*	130,000	13 %
Russian	61,000	6 %
Korean	36,000	3 %
Italian	33,000	3 %
Polish	28,000	3 %
French	27,000	3 %
French Creole	23,400	2%

- The category "Chinese" includes all Chinese dialects.

Limited English proficiency is predominantly a problem faced by immigrants. The Census indicated that the foreign-born accounted for one in five New York State residents in 2000. Of this foreign-born population, 40 percent came to New York within the last ten years. Among all racial and ethnic groups, Hispanics showed the greatest growth in numbers between 1990 and 2000; during the same period, the Asian population grew at the fastest rate. These rapid growth rates were mostly due to immigration. Other data, obtained from smaller surveys conducted after the 2000

Census, confirm a continuing pattern of growth in the proportion of Hispanics, Asians and recent immigrants in general among the population and workforce in New York State. As such, we can expect New York State's LEP population to continue to grow.

Legislative Requirements

Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally assisted programs and activities. In response to these concerns, federal Executive Order 13166, entitled, "Improving Access to Services for Persons with Limited English Proficiency" was issued on August 11, 2000. Under this order, every federal agency subject to the requirements of Title VI of the Civil Rights Act of 1964 was instructed to publish guidance on how their recipients could provide meaningful access to LEP persons.

The United States Department of Labor (USDOL) published its guidance in the *Federal Register* on May 29, 2003 (a modification of earlier guidance published on January 17, 2001). A copy of this guidance is provided under Attachment A of this directive. As a State Workforce Agency (SWA), the New York State Department of Labor is considered to be a recipient of USDOL's assistance. Furthermore, pursuant to the Civil Rights Restoration Act of 1987, this coverage extends to all Department programs or activities. Therefore, our State-funded (such as Apprenticeship Training and Worker Protection programs) as well as our federally-funded programs must comply with USDOL's LEP guidance. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition against national origin discrimination under Title VI of the Civil Rights Act of 1964 and Section 188 of the Workforce Investment Act (WIA).

What Does USDOL's Guidance Require?

Recipients are required to take reasonable steps to ensure meaningful access to programs and activities by LEP persons. The starting point is an individualized assessment that balances the following factors:

1. the number or proportion of LEP persons serviced or encountered in the eligible service population;
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 recipient; and,
4. the resources available to the recipient and costs.

This four-factor analysis should be used to determine the "mix" of LEP services required. Recipients have two main ways to provide language service: oral interpretation either in person or via telephone and written translation. The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis.

Language Assistance Plan

After completing the four-factor analysis, and deciding what language assistance services are appropriate, USDOL recommends that recipients develop a language assistance (implementation) plan. This directive outlines the Division of Employment Services' Language Assistance Plan.

Identification of LEP Individuals Who Need Language Assistance

- Research and Statistics has used data collected through the 2000 Census to develop *estimates* of the limited English population languages for each of 33 local workforce investment area of the state. This data has been provided to each Regional Administrator and each Region's designated LEP Planning Coordinator for distribution to local managers to aid in planning language assistance services.
- Local office managers and their staff were surveyed regarding the languages identified as possible LEP populations for their local workforce areas. They were asked to identify the frequency with which they encountered these populations, to identify any other LEP languages that may not have been listed for their region and to describe the language assistance that they currently utilize. Existing parenthetical and multilingual staff and the languages in which they are proficient were also identified during this process.
- Because many customers come into DoES' programs through the unemployment insurance (UI) program, we also reviewed language needs captured through usage reports of the UI program's language line service provider. The most frequently encountered languages include:
 - ✓ Russian
 - ✓ Chinese (Cantonese and Mandarin dialects)
 - ✓ Haitian Creole

It should be noted that the call centers have a number of multilingual staff. As such, some LEP callers are handled directly by staff and do not get referred to the telephonic interpretation service unless appropriate telephone call center (TCC) staff are not available (e.g., Spanish, Chinese, Korean).

- Staff has been instructed to enter the language service needs of LEP customers in OSOS records when known.
- Staff has been provided with "I speak" cards to invite LEP persons to identify their language needs.
- Posters notifying customers of the availability of language assistance services translated into 19 commonly encountered languages are posted in DoES offices and One-Stop Centers.
- Plans are underway to transfer customers' language needs information from the UI database into DoES' database as part of the planned Re-Employment Operating System (REOS) anticipated in spring 2005.

- Local managers will begin to monitor language services needs through their monthly review of language line usage (see Procedural Directive 2004-#06).

Language Assistance Measures

- Parenthetical and bilingual staff (including partner staff) are used to provide on site interpretative services as appropriate. Staff also uses DOL employees listed in the Department's Language Bank to provide interpretative services as an option. In some areas, arrangements have been made with local community based and educational agencies for interpreters.
- Staff will not rely on a LEP person's family members, friends, or other informal interpreters to provide language assistance services to important activities.
- DoES has contracted with Language Services Associates to provide telephonic interpretive services through INTERPRETALK™. Instructions for accessing and using this service are summarized in DoES Procedural Directive 2004 - #06. This vendor is on the State Contractor list and has been used by the Department of Labor for several years to provide telephonic interpretive services for the UI program.
- Translation services are available through a Memorandum of Understanding entered into between the Department of Labor and the Office of Temporary and Disability Assistance (OTDA). OTDA has an established Language Services Unit that provides direct translation in Spanish, Russian, Chinese and Arabic. OTDA contracts with a vendor to acquire translations in additional languages and uses a quality control process whereby secondary translators (also contracted) "double check" initial translations. Instructions for accessing and using this service are summarized in DoES Procedural Directive 2005 - #01.

Training Staff

- DoES has issued a series of procedural directives addressing LEP policy and procedures including accessing interpretive and translation services and providing notice to LEP persons.
- In addition to the Power Point training module included with this directive (see Attachment B), training will be provided at workshops and conferences throughout the state.

Providing Notice to LEP Persons

- "I Speak" cards have been distributed as part of the roll-out associated with the implementation of INTERPRETALK™, the telephonic interpretation service. In addition, staff has been encouraged to also use the "I Speak" card available through the U. S. Department of Commerce's Bureau of the Census.
- DoES distributed posters alerting customers of the availability of free interpretative services in English and 19 frequently encountered other languages to all its offices.
- Instruction and procedures for providing notice and outreach to LEP populations is covered under Procedural Directive 2005 - #02.

Monitoring and Updating the LEP Plan

- An LEP Planning Coordinator has been named for each of the eight DoES Regions. These individuals assist in coordinating ongoing resource or technical assistance needs for local offices in their regions.
- Staff will be surveyed biennially to update information regarding significant LEP populations and language assistance resources.
- Use of telephonic interpretation and translation services will be tracked centrally by DoES.
- The Department of Labor's Division of Equal Opportunity Development monitors DoES offices annually to ensure compliance with Title VI of the Civil Rights Act of 1964 and Section 188 of the Workforce Investment Act.

[Attachment A: USDOL's LEP Guidance](#)

[Attachment B: Power Point Presentation: "Improving Access for Persons with Limited English Proficiency"](#)