

**DELAWARE DEPARTMENT OF JUSTICE**  
**LIMITED ENGLISH PROFICIENCY POLICY**

**I. POLICY**

It is the policy of the Delaware Department of Justice (the “DDOJ”) to take reasonable steps to provide timely, meaningful access for Limited English Proficient (“LEP,” as defined below) persons to the services and benefits that DDOJ provides through all of its programs and activities. All DDOJ personnel shall provide free language assistance services to LEP individuals whom they encounter or whenever an LEP person requests language assistance services. All DDOJ personnel will inform members of the public that language assistance services are available free of charge to LEP persons and that DDOJ will provide these services to them.

**II. PURPOSE**

DDOJ has established the following guidelines for assessing the needs of LEP individuals. This policy also addresses the use of interpretation and translation services for LEP individuals.

DDOJ recognizes the importance of effective and accurate communication between its personnel and the community. Language barriers can impede effective and accurate communication in a variety of ways. Hampered communications with LEP victims, witnesses, their family members, and community members can present the DDOJ with safety, evidentiary, and ethical challenges. Language barriers can sometimes inhibit or even prohibit LEP individuals from accessing and/or understanding important rights, obligations and services, or from communicating accurately and effectively in difficult or sensitive situations.

Ensuring maximum communication ability between DDOJ and all segments of the community serves the interest of both.

The purpose of this policy is to establish effective guidelines, consistent with Title VI of the Civil Rights Act of 1964 and the Omnibus Crime Control and Safe Streets Act of 1968, for DDOJ personnel to follow when providing services to, or interacting with, LEP individuals.

### **III. DEFINITIONS**

“Bilingual” shall mean the ability to use two languages proficiently.

“DDOJAI” shall mean a Delaware Department of Justice Authorized Interpreter who is a bilingual person who has been tested, certified, and authorized to interpret for others in certain situations.

“DDOJIL” shall mean the Delaware Department of Justice Interpreter List. A delineation of DDOJ personnel who are bilingual and are authorized to act as interpreters.

“Interpretation” shall mean 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.

“LEP” shall mean individuals whose primary language is not English and who have a limited ability to read, write, speak, or understand English. LEP individuals may be competent in certain types of communication (e.g.: speaking or understanding), but still be LEP for other purposes (e.g.: reading or writing).

“LEP Coordinator” shall mean the individual assigned by DDOJ as the person responsible for coordinating and implementing all aspects of DDOJ language services to LEP individuals.

“Primary Language” shall mean an individual’s native tongue or the language in which an individual most effectively communicates. DDOJ personnel should avoid assumptions about an individual’s primary language. DDOJ personnel should make every effort to ascertain an individual’s primary language to ensure effective communication.

“Translation” shall mean the replacement of written text from one language (source language) into equivalent written text in another language (target language).

#### **IV. IDENTIFYING LEP PERSONS IN ELIGIBLE SERVICE POPULATION**

DDOJ will annually review demographic data on LEP persons in Delaware, as that data is released by the U.S. Census Bureau, to determine whether there is a need to revise certain aspects of DDOJ’s LEP policy. The most recent data released by the U.S. Census Bureau is attached as “Appendix 1” hereto and can also be accessed at [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_10\\_1YR\\_C16001&prodType=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_10_1YR_C16001&prodType=table).

In addition, as part of this demographic assessment, DDOJ evaluates LEP population information it receives from the Delaware Hispanic Commission,<sup>1</sup> which makes recommendations to the Governor regarding the Hispanic community within the state and seeks to enable Delaware organizations to serve the Hispanic community more effectively.

In addition, DDOJ relies on the following resources to identify and track language data of LEP persons it encounters:

- DDOJ spearheaded a change in police report procedure, which now requires each of Delaware’s nearly forty police agencies to track language assistance needs in their police reports. By tracking this information during law enforcement’s first

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<sup>1</sup> Previously known as the Governor’s Advisory Council on Hispanic Affairs.

contact with defendants and victims, DDOJ proactively takes measures to address language assistance needs from the onset of its communications. Additionally, this change assists DDOJ with gathering statistics to enhance its own language assistance services.

- The DDOJ Juvenile Delinquency Unit tracks data regarding the language assistance needs of defendants, victims, and witnesses.

## **V. PROCEDURES FOR ACCESSING INTERPRETATION SERVICES**

### **A. In-Person Communications**

DDOJ personnel often interact with members of the public, including in responding to requests for assistance or information, conducting interviews with victims and witnesses, communicating with persons before, during, and after court proceedings, interacting with *pro se* defendants, and eliciting feedback from the community. During these in-person communications, DDOJ staff members shall inform LEP individuals that free interpreter services are available on request to LEP individuals. A determination of the individual's English proficiency shall be based on the individual's assessment of his/her ability and should not be influenced by the proficiency of a friend or family member accompanying or assisting the individual, except if the individual is a child or an incapacitated adult. To assist in identifying an LEP person's language, the LEP Coordinator ensures that "I Speak" language cards are available in all reception areas and victim-witness interview rooms, and personally provided to those staff members who most frequently encounter LEP individuals. These cards invite LEP persons to self-identify their language needs to staff members. The federal government has made a set of these cards available online to reduce the costs of compliance. (*See <http://www.lep.gov/ISpeakCards2004.pdf>.*)

### Procedures for Responding to Public Inquiries

1. When a member of the public is received in the reception area and it is determined that the individual is LEP, the receptionist on duty shall attempt to identify the language by use of the “I Speak” language cards. When the language is identified, the receptionist shall immediately refer to the DDOJIL (attached as “Appendix 2”) for an available and appropriate DDOJAI. The receptionist shall contact the Director of Human Resources who will contact the appropriate supervisor to determine the availability of the DDOJAI. If a DDOJAI is available, the Director of Human Resources will provide the DDOJAI’s contact information to the receptionist who in turn will contact the DDOJAI to assist with the LEP individual.

2. If no available and appropriate DDOJAIs are present, the receptionist and/or the Director of Human Resources will contact the LEP Coordinator for assistance.

3. If the LEP Coordinator is not available, the receptionist will contact the Deputy Attorney General assigned as the weekly contact for public inquiries. The receptionist will then contact DDOJ’s contracted telephonic interpretation service directly and establish communication between the LEP individual, the interpreter, and the designated Deputy Attorney General. Contact information for the contracted telephonic interpretation service or services for which DDOJ has accounts with is attached hereto as “Appendix 3.”

4. The DDOJAI and/or the designated Deputy Attorney General will note the information received by the LEP individual and indicate the person’s language and provide this information to the LEP Coordinator.

5. Additionally, if it is determined that the LEP individual has questions regarding citizenship or immigration issues, DDOJ personnel may also refer him or her to the Service for

Foreign Born, which is a designated office within DDOJ. The Service for Foreign Born provides guidance, counseling, and assistance with immigration and citizenship petitions. The office plans and coordinates the ceremonies held in the U.S. District Court to grant United States Citizenship.

Procedures for Communicating with Victims and Witnesses and Conducting Interviews

1. DDOJ personnel, including but not limited to Deputy Attorneys General, Social Workers, victim specialists and investigators, when interacting with victims and witnesses and conducting interviews, will attempt to identify the LEP individual's primary language through use of the "I Speak" language cards.

2. When the language is identified, DDOJ personnel shall immediately refer to the DDOJIL (attached as "Appendix 2") for an available and appropriated DDOJAI. If a DDOJAI is available, DDOJ personnel will contact the DDOJAI to assist with the LEP individual.

3. If no available and appropriate DDOJAIs are present, DDOJ personnel will contact the LEP Coordinator for assistance.

4. If the LEP Coordinator is not available, DDOJ personnel may then contact DDOJ's contracted telephonic interpretation service directly and establish communication between the LEP individual, the interpreter, and DDOJ personnel. Contact information for the contracted telephonic interpretation service or services for which DDOJ has accounts with is attached hereto as "Appendix 3."

5. If an in-person interpreter is required for a language that is not provided by a DDOJAI, then DDOJ personnel may contact the LEP Coordinator to procure contracted in-person interpretation services.

In providing language assistance, absent exigent circumstances, family members (including children), neighbors, friends, acquaintances, or bystanders should not be used to provide interpretation services. Using a non-qualified interpreter could result in a breach of confidentiality, a conflict of interest, or inadequate interpretation.

#### Procedures for Communicating with Persons Before, During, and After Court Proceedings

When interacting with LEP individuals, who are not defendants, prior to or after a court proceeding, DDOJ personnel will follow the procedures set forth for communicating with victims and witnesses as provided in this Policy. If the LEP individual is a defendant represented by counsel, DDOJ personnel shall follow the Delaware Lawyers' Rules of Professional Conduct and applicable law regarding communication with an opposing party. During court proceedings, DDOJ personnel will utilize the services of a court-certified interpreter.

#### Procedures for Interacting with *Pro Se* Defendants

When interacting with LEP individuals who are *pro se* defendants, DDOJ personnel will, to the extent permitted, utilize the services of a court-certified interpreter.

#### B. Telephonic Communications

1. When a call is received by DDOJ personnel and it is determined that the caller is an LEP individual, the call taker shall inform the LEP individual that he or she will be transferred to a DDOJAI. If the call taker can identify the LEP person's language, the call taker shall refer to the DDOJIL for an available and appropriate DDOJAI to respond. If a DDOJAI is available, the call taker shall transfer the LEP individual to the DDOJAI. The DDOJAI will

assess the nature and urgency of the call and notify the appropriate DDOJ division/unit and the LEP Coordinator for further action if necessary.

2. If there is no available and appropriate DDOJAI, or if the call taker cannot identify the LEP person's language, DDOJ personnel may then contact DDOJ's contracted telephonic interpretation service directly and establish communication between the LEP individual, the interpreter, and the designated Deputy Attorney General.

## **VI. PROCEDURES FOR ACCESSING DOCUMENT TRANSLATION SERVICES**

### **A. General Obligations**

DDOJ translates vital documents for each language group constituting 5% or 1000 individuals (whichever is less) among its service population. This "safe harbor" is the threshold that determines when written translation is required.<sup>2</sup> To determine if a document is "vital," DDOJ reviews "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."<sup>3</sup> The LEP Coordinator will identify all existing vital documents to be translated by December 31<sup>st</sup> of each year. By December 31<sup>st</sup> of each year, the LEP Coordinator will identify those languages into which vital documents will be translated based on available demographic data, including information contained in the U.S. Census Bureau's American Community Survey reports. By December 31<sup>st</sup> of the following year, the LEP Coordinator shall ensure that all identified vital documents are translated into appropriate languages. Management will meet annually with DDOJ's LEP Coordinator to address which additional DDOJ written materials should be classified as "vital" and to identify methods to ensure language access for

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<sup>2</sup> Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455, 41,464 (June 18, 2002).

<sup>3</sup> *Id.* at 41,463.



these documents for Delaware's major LEP groups.

DDOJ shall ensure that LEP individuals have access to its translated written materials, including public information documents, public forms, and other pertinent documents. The LEP Coordinator ensures that these materials are available in the lobby of DDOJ offices and on the DDOJ Web site. If an LEP person seeks information about a document that is not translated into his or her language, then personnel will provide competent oral interpretation of that document in the LEP person's primary language.

B. Requests by DDOJ Divisions and Units for Translation of DDOJ Written Materials

Although the LEP Coordinator shall be the central conduit for document translation, all DDOJ divisions and units shall have access to this service if needed. Should DDOJ personnel identify a need for a specific DDOJ document to be translated, a memorandum will be forwarded to the LEP Coordinator. The LEP Coordinator will review the request and confirm that no similar document has already been translated, and then forward the document for translation, either to an appropriate DDOJAI or to a contracted firm, which will also print copies of the translated document, as necessary.

C. Translation of Investigative Documents

Should an investigator need a note, letter, or other document translated for an investigation, he or she will forward a memorandum to the LEP Coordinator with a copy of the original note, letter, or other document to be translated and indicate if the translation is needed immediately or otherwise specify the date the translation is required.

D. Translation of Written Communications from LEP Persons

All non-English written communications from LEP individuals shall be forwarded to the

LEP Coordinator. The LEP Coordinator will then forward the communication to the appropriate DDOJ division or unit and assign a DDOJAI if necessary. If no appropriate DDOJAI is available, the LEP Coordinator may forward the communication to a contracted firm for translation.

## **VII. COMPLAINT AND COMPLIMENT PROCESS FOR LEP INDIVIDUALS**

DDOJ provides several outlets for the community to voice concerns, questions, complaints, and/or praise. These may be submitted via email to [attorney.general@state.de.us](mailto:attorney.general@state.de.us). They may also be submitted via post to the Delaware Department of Justice, Carvel State Office Building, 820 North French Street, 6th Floor, Wilmington, DE 19801. Phone call inquiries may be made to the general DDOJ phone line (Criminal Division: 302-577-8500; Civil Division: 302-577-8400 or Consumer Protection Unit: 302-577-8600) or to the Spanish Language Assistance Line (877-851-0482). Community concerns are addressed by designated DDOJ personnel. Any LEP individual who wishes to file a complaint with DDOJ regarding the discharge of DDOJ's duties shall be provided with translated complaint forms. The LEP Coordinator will then forward the completed complaint to the appropriate DDOJ division or unit and assign a DDOJAI if necessary.

## **VIII. NOTIFYING THE PUBLIC ABOUT DDOJ LANGUAGE SERVICES**

By December 31, 2012, DDOJ shall create and post, as necessary, appropriate signage to provide notice regarding available language assistance services. By December 31, 2012, DDOJ will also post on its Web site the LEP policy and a notice about the availability of language resources.

## **IX. SIGNIFICANT OUTREACH EFFORTS TO LEP COMMUNITY**

DDOJ maintains a Spanish-language Web page, which contains short summaries of the

services provided by each division within DDOJ, notes that free language assistance is available through a Toll-Free Spanish Language Assistance Line, and contains a “featured” section to highlight current office news. The DDOJ Public Information Office also distributes DDOJ press releases to the largest local Hispanic media source, *El Tiempo*.

In addition, DDOJ disseminates Spanish-language informational materials at various public events, including the Delaware State Fair, Milford/Sussex County Festival Hispano, Festival Hispano Wilmington, and the Latin American Community Center.

The LEP Coordinator additionally communicates with either the DDOJ Community Relations Coordinator or the Director of Legislation and External Affairs to help identify, contact, and coordinate with various other LEP communities throughout the State.

#### **X. RECRUITING BILINGUAL STAFF MEMBERS**

DDOJ recruits and hires qualified bilingual staff members. DDOJ directly submits job vacancy postings to the South Asian Bar Association, Pennsylvania Hispanic Bar Association, National Hispanic Bar Association, and the Latino Bar Association.

#### **XI. TRAINING REGARDING LEP POLICY AND LANGUAGE ASSISTANCE RESOURCES**

No later than 90 day from the effective date, DDOJ will disseminate the LEP policy to staff through electronic insertion in the current DDOJ Policies and Procedures Manual and by posting it on the DDOJ Intranet. DDOJ will also provide periodic training to personnel about DDOJ’s LEP policy, including how and when to access language services, including DDOJAI personnel, and telephonic interpreters. DDOJ shall conduct such training for new employees and at in-service training at least every two years. Training shall initially be conducted within 180 days of the effective date of this policy.

## **XII. PROCESS FOR ESTABLISHING LANGUAGE PROFICIENCY OF PERSONNEL**

DDOJ personnel who are willing to act as a DDOJAI will have their language skills assessed and certified in accordance with the proficiency guidelines established by the American Council on the Teaching of Foreign Languages. All personnel placed on the DDOJIL must have successfully completed the prescribed interpreter testing. To successfully complete interpreter testing, an interpreter must demonstrate proficiency in and the ability to communicate information accurately in both English and the target language, and have knowledge in both languages of any specialized terms or concepts peculiar to DDOJ and of any particularized vocabulary and phraseology used by the LEP person. DDOJ's Human Resources Department tracks information about employee language proficiency and maintains the DDOJIL.

## **XIII. MONITORING AND UPDATING LANGUAGE ASSISTANCE EFFORTS**

In addition to the responsibilities discussed above to ensure compliance with the LEP policy, the LEP Coordinator shall, on an annual basis, undertake the following measures to determine whether the DDOJ should refine its language assistance efforts.

A. Tracking and Analysis of LEP Data: In consultation with community-based organizations, the LEP Coordinator shall be responsible for assessing demographic data (including but not limited to current United States Census results) and information about DDOJ contacts with LEP persons. The LEP Coordinator will also review utilization data and consult with community-based organizations to ensure that DDOJ is providing meaningful access to LEP persons in all DDOJ-conducted programs and activities. A comprehensive report will be submitted by the LEP Coordinator to DDOJ leadership at the beginning of each calendar year regarding the analysis of data along with recommendations for changes or budgetary requests.

B. Translated Documents: In consultation with community-based organizations, the LEP Coordinator shall be responsible for reviewing all documents issued by DDOJ to assess whether they should be translated and determining into what languages vital documents should be translated.

C. Review of LEP Policy: The LEP Coordinator shall review the LEP plan and update it as appropriate.

Effective Date: January 31, 2012