



National Council on Disability

An independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities and their families.

National Council on Disability Language Access Plan (Executive Order 13166): Revised November 8, 2023

This revised language access plan for the National Council on Disability (NCD) is provided in response to the U.S. Attorney General's request to Strengthen the Federal Government's Commitment to Language Access pertaining to Executive Order 13166 (EO 13166). The purpose of this plan is to explain to NCD staff and NCD stakeholders NCD's language access responsibilities under EO 13166.

Agency Policy Statement

It is the policy of the National Council on Disability (NCD) that NCD's staff shall take reasonable steps to provide persons with limited English proficiency (LEP) with meaningful access to all programs or activities conducted by NCD at no cost to the person with LEP.

Agency Background

The National Council on Disability (NCD) is an independent federal agency that leads national disability policy and advances full inclusion, independence, and equal opportunity for people with disabilities. NCD's team is comprised of nine Council members – four appointed by leadership in Congress and five appointed by the President. and a full-time professional staff hired by the Executive Director, who is appointed by the Chairman. The mission of NCD is to be a trusted advisor to the President; Congress; federal entities; state, tribal, and local governments and communities.

NCD's policy of outreach to diverse people with disabilities, including people with LEP, is long-standing.¹ For example, in chronological order, NCD:

- Made its printed agency brochure available in Spanish (1995);
- Conducted public hearings using Spanish, Cantonese, and American Sign language interpreters for people with limited English proficiency, non-English speakers from the Asian/Pacific Islander and Hispanic communities, and people who were deaf (1998);
- Broke new ground by translating *Lift Every Voice: Modernizing Disability Policies and Programs to Serve a Diverse Nation* into Spanish and Cantonese (1999);
- Began convening stakeholders from diverse cultures in "think tanks" (2000);
- Translated agency reports (e.g., *Back to School on Civil Rights; Reconstructing Fair Housing; The Accessible Future*) into Spanish (2001);

¹ All NCD reports listed in this report are available at: www.ncd.gov

- Began a practice of including requests for language translation as a reasonable accommodation in advance of each NCD quarterly meeting (2001);
- Worked with the U.S. Government Printing Office (GPO) regarding translation software so that Spanish, Chinese, Vietnamese, Tagalog, and Korean could be added to all federal Web sites under GPO's purview (2001);
- Established and worked with a Cultural Diversity Advisory Committee under the Federal Advisory Committee Act (2002 – 2008)
- Provided language translations for selected regional briefings (2003);
- Began translating selected news releases and media advisories into Spanish and Chinese (2003); and
- Gathered information about basic diversity principles from its Federal Advisory Committee on Cultural Diversity to empower people from diverse cultures with disabilities and their families to take full advantage of federal laws, programs, and services and provide them with (1) opportunities for participation in planning and decision making about matters that affect their lives; (2) easy-to-understand, culturally sensitive and appropriate information about what their rights are under various federal laws (e.g., ADA, the Rehabilitation Act, IDEA, the Fair Housing Act); and (3) information on how best to exercise those rights when a violation or discrimination is alleged (See: *Embracing Diversity: Background Information on Enhancing Support for Inclusion through Cultural and Linguistic Competence*; and *Common Myths About Diversity And Cultural Competency*) (2002 - 2008)
- In May 2019, NCD conducted a Town Hall and Council Meeting in Puerto Rico. NCD provided Realtime translation from English to Spanish and Spanish to English, Communication Access Realtime Translation (CART) (transcribing spoken text and sound into words) in Spanish and English and provided sign language interpreters in multiple languages.
- In 2022, NCD translated its 135-page report *Disparate Treatment of Puerto Rico Residents with Disabilities in Federal Programs and Services*. into Spanish
- In 2023, NCD released an updated *Understanding Disabilities in American Indian & Alaska Native Communities Toolkit Guide*.

Language Access Plan Guidance

The Attorney General's November 2022 memorandum on EO 13166 directs all federal agencies to share best practices, analyze existing LAPs and update and assess the effectiveness of agencies LEP plans in reaching individuals with limited English proficiency when disseminating federal resources, programs, and services, and assist recipients regarding obligations to provide meaningful language access under the requirements of Title VI of the Civil Rights Act of 1964 - and also assess whether agencies can adapt their digital communications to welcome individuals with limited English proficiency.

Executive Orders issued after EO 13166 continue to remind federal agencies that federally conducted programs and activities must be accessible to persons with LEP. EO 13985 *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, states that "persons with LEP could be considered underserved communities and asks agencies to consider potential barriers that

underserved communities and individuals may face to enrolment in and access to benefits and services in federal programs.”²

Executive Order 14031, *Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders* states, “Linguistic isolation and lack of access to language assistance services continue to lock many AA and NHPI individuals out of opportunity.”³ Executive Order 14091, *Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* states, “improved language access services to ensure that all communities can engage with agencies respective civil rights offices, including by fully implementing Executive Order 13166.”⁴

Agency Policy

All NCD staff are responsible for taking reasonable steps to provide meaningful access to individuals with LEP. Existing NCD staff will be provided training on policies and procedures on how to process and accommodate an LEP request. NCD will also notify new staff and Council members of NCD’s LEP process during orientation. Nicholas Sabula, Public Affairs Specialist, will be NCD’s point of contact and serve as our language access coordinator. Nicholas can be reached at nsabula@ncd.gov.

Agency Response to Action Items

Action Item 1 – Best Practices

The mission of NCD is to be a trusted advisor to the President; Congress; federal entities; state, tribal, and local governments and communities; and private sector entities. All NCD public meetings include an American Sign Language (ASL) interpreter and a CART reporter. In addition, all public notices for NCD meetings provide contact information to request a reasonable accommodation. These notices also indicate that language assistance services are also available upon request for persons who do not speak, read, write, or understand the English language. For instance, as stated above in May 2019, during a public town hall meeting and Council meeting, NCD provided interpreters to translate from Spanish to English and English to Spanish as well as sign language interpreters in English and Spanish and CART reporter in English and Spanish to accommodate LEP stakeholders attending the meetings. NCD will prioritize the translation of relevant information into non-English languages as applicable.

NCD incorporates Executive Order 13166 language in every cooperative agreement. The exact language NCD uses is:

² 86 Fed. Reg. 14, 7009 (Jan. 20, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf>

³ 86 Fed. Reg. 105, 29675 (June 3, 2021), <https://www.govinfo.gov/content/pkg/FR2021-06-03/pdf/2021-11792.pdf>

⁴ 88 Fed. Reg. 35, 10825 (Feb. 22, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-02-22/pdf/2023-03779.pdf>.

6.2 Executive Orders: Recipient agrees to conduct this Agreement in compliance with the following executive orders. Recipient also agrees as compliance by any Sub recipients.

6.2.2 Executive Order 13166: Recipients must ensure meaningful access to programs and activities by persons with limited English proficiency.

Action item 2 - Analysis of Existing LAP

NCD is a small independent federal agency with a staff of 11 and an annual budget of approximately \$3 million, with a preponderance of the budget going to administrative costs and overhead. Because of our size, NCD has found implementation of a robust LAP challenging.

NCD met with other small federal agencies with similar concerns to gain insight on how NCD can ensure LEP services are available when requested. One option NCD is considering is to enter into a Memorandum of Understanding (MOU) with another Federal agency to provide transcription and interpretation services on an as-needed, fee for service basis. NCD aspires to have this arrangement in place within the next 12 months.

To ensure quality and accuracy of the language assistance services provided by NCD we will follow the guidelines and the interagency working group on limited English proficiency foreign language services ordering guide. NCD will include in the contracts that “NCD linguists or contract personnel should have demonstrated proficiency in and ability to communicate information accurately in both English and the other language-identify and employ the appropriate mode of interpreting (e.g., consecutive, simultaneous, or slight translation), and translating, or communicating fluently in the target language-have knowledge in both languages of any specialized terms or concepts particular to the components program or activity and of any particularized vocabulary used by the LEP person-understand and follow confidentiality, impartiality, and ethical rules to the same extent as department staff, understand and adhere to their role as interpreters, translators, or multilingual staff.”

CART services are arranged in advance and services are provided via a contractor. The transcriptionist can provide their services remotely or in person. NCD’s process for providing CART or any reasonable accommodation to accommodate a disability is similar to the process we follow when a stakeholder requests LEP services. NCD has a reasonable accommodations coordinator that manages accommodation requests and all NCD meeting notices include language on how to request a reasonable accommodation. Moving forward, NCD will ensure that all meeting notices provide an opportunity for NCD stakeholders to request LEP services. That request will be processed similarly to our already established process for accommodating reasonable accommodations.

Within the next 12 months, NCD staff will be trained on reasonable efforts to conduct or arrange for an initial assessment of the need for language assistance services. NCD will use the following criteria to assess the LEP needs.

- voluntary self identification by the individual with LEP or their companion;
- affirmative inquiry regarding the primary language of the individual if they have self identified as needed language assistance services;
- engagement by a qualified multilingual staff or qualified interpreter to verify an individual's primary language; or
- use of an "I Speak" language identification card or poster.

NCD staff should not make assumptions about an individual's primary language based on race, color, national origin.

Additional considerations when identifying language, include:

- Asking the individual about their region, municipality, village, for specific communities, to ensure the correct identification of language.

Per DOJ's recommendation, NCD will track data on individuals with LEP that engage with the agency. We will collect data on how many times language access services are provided and the volume of translated materials provided by the agency. We will bifurcate the data by primary language requested and type of language assistance services provided. Collection of this data will assist NCD in understanding the communities it serves and uncover language access needs that may have not been previously apparent or visible. This data can also be used as a tool to ensure resources are appropriately allocated to the most critical programs, and geographic areas, or languages.

Over the next 2 years, NCD aspires to determine which public facing documents are considered vital documents and determine the languages these documents should be translated. To make this determination, NCD will collaborate with the disability community and ask for feedback to determine whether NCD's language assistance services are effective in overcoming language barriers for stakeholders who have LEP.

Action Item 3 - Digital Communications Access to LEP

NCD's focus on accessibility for people with disabilities has been part of its core mission providing recommendations to the President, Congress, and federal agencies. While NCD works to support all received requests, due to limited staff, budget and ability to translate, digital communications are typically put out in either English-only or considered for additional languages based on audience in a regional or local setting. In terms of previous communications support for LEP, NCD's focus has been on an as-needed basis when it is deemed appropriate programmatically, whether use of translators for in-person events or to translate from English to another language that can be streamed or produced. For instance, in May 2019 NCD held a council meeting and prioritized all communication products to be simultaneously released in both English and Puerto Rican Spanish. This included press releases that were targeted to media on the island, and all social media posts before and during the Council meeting, which were pre-scripted to ensure the agency met its goal of 100 percent accessibility for residents of Puerto Rico. Captioning was depicted in both language on screens at

the event in real-time. NCD will look to partner with federal, state and local agencies and other stakeholders to ensure access to needed translation is available as requested, ensuring competent translation support is accessed.

NCD is retooling its website, and in the newest iteration, the website will have a dedicated LEP page. NCD's homepage will have a Contact Us button available in multiple languages. In addition, the LAP landing page will have multilingual instructions for accessibility such as obtaining translation services and will incorporate the memorandum from the US Web Design System Language Selector webpage in its design.⁵

NCD's LAP will be publicly available on NCD's website at: <https://www.ncd.gov/LEP>.

LAP Definitions:

a. Direct "In-Language" Communication. Monolingual communication in a language other than English between a multilingual staff and a person with LEP (e.g., Korean to Korean).

b. Interpretation. The act of listening, understanding, analyzing, and processing a spoken communication in one language (source language) and then faithfully orally rendering it into another spoken language (target language) while retaining the same meaning.

c. Limited English Proficiency (LEP). Describes individuals who: a. do not speak English as their primary language; and b. have a limited ability to read, write, speak, or understand English. Individuals with LEP may be competent in English for certain types of communication (e.g., speaking or understanding), but have limited proficiency in English in other areas (e.g., reading or writing). LEP designations are also context-specific; an individual may possess sufficient English language skills to function in one setting (e.g., conversing in English with coworkers), but these skills may be insufficient in other settings (e.g., addressing court proceedings). An individual who is D/HOH may also have limited proficiency in spoken or written English and may not be proficient in ASL or any other recognized sign language.

d. Language Assistance Services. Oral and written language services used to provide individuals with LEP meaningful access to, and an equal opportunity to participate fully in, the services, activities, and other programs administered by the Department.

e. Meaningful Access. Language assistance that results in accurate, timely, and effective communication at no cost to the individual with LEP needing assistance. Meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English-proficient individuals.

⁵ US Web Design Systems, Language Selector, <https://designsystem.digital.gov/components/language-selector/>

f. **Primary Language.** The language in which an individual most effectively communicates when interacting with the Department. An individual's primary language may be a language variant.

g. **Sight Translation.** Oral or signed rendering of written text into spoken or signed language by an interpreter without change in meaning based on a visual review of the original text or document.

h. **Translation.** The process of converting written text from a source language into an equivalent written text in a target language as fully and accurately as possible while maintaining the style, tone, and intent of the text, while considering differences of culture and dialect.

i. **Vital Document.** Paper or electronic written material that contains information that is critical for accessing a component's programs or activities or is required by law

Agency Commitment

NCD will continue its efforts to comply fully with EO 13166, 13985, 14031 and 14091. NCD stands ready to review its LEP plan at least annually, including the provision of opportunity for external stakeholder input that may necessitate revisions. NCD will apply the guidance developed by DOJ in that agency's assigned civil rights leadership role to ensure meaningful access to all federal agency services. NCD will collaborate with stakeholders and federal partners addressing the unique needs of people with cultural, language diversity and LEP access needs. NCD will monitor the effectiveness of its LEP outreach and modify this language access plan as needed to ensure meaningful inclusion of all people with disabilities into our society. The changing demographics of the United States and the anticipated effect on increased cultural and language diversity among people with disabilities add to the urgency of addressing language access needs.