

Background:

In accordance with RCW 43.20.275, the Governor's Interagency Council on Health Disparities (Council) is authorized to collect information and make recommendations to improve the availability of culturally and linguistically appropriate services within public and private agencies. It is also authorized to gather information to understand how the actions of state government ameliorate or contribute to health disparities. In alignment with those statutory responsibilities, in May 2011, the Council passed a motion to select the state system as a priority and convened an ad hoc workgroup of Council members to develop recommendations for the full Council's consideration. The workgroup first convened on August 1, 2012 and agreed to focus on language access to state services. This policy paper provides context and supporting research that the workgroup used to prepare its recommendations for the Council.

Definitions and Acronyms

LEP: Limited-English Proficiency

Interpretation and Translation:

Interpretation involves the immediate communication of meaning from one language (the source language) into another (the target language). An interpreter conveys meaning orally, while a translator conveys meaning from written text to written text.

Language Access Recommendations for the Council's Consideration:

The following recommendations can assist state agencies in providing meaningful language access to information and services in order to help ensure compliance with Title VI of the Civil Rights Act. The recommendations align with [Results Washington Goal 5](#), "Effective, efficient and accountable government", and specifically the sub topic of customer satisfaction.

1. State agencies should develop and implement language access policies and plans containing the following key elements:
 - Assessment of appropriate language assistance needs using the four-factor analysis outlined in the Department of Justice Guidance.¹
 - Identification and translation of essential public documents.
 - Provision of quality and timely interpretation services.
 - Procedures for training staff on the policy and agency procedures.
 - Posting of signage about the availability of interpretation services.
 - Measurement and reporting system to track services provided.
 - Public awareness strategies.
2. State agencies should designate language access coordinators to oversee and implement their agency's language access plans.
3. The Governor's Office should identify an individual and/or office (at the executive level if possible) to provide central coordination, including the following key functions:
 - Ensure prioritization of language access across agencies.
 - Oversee implementation of agency language access policies and plans.
 - Develop resources, tools, and templates to facilitate implementation across agencies.
 - Convene regular meetings of agency language access coordinators to leverage resources and share best practices.

¹ [Department of Justice Guidance](#) to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons.

Washington Demographics:

Washington's population continues to become more diverse. In 2010, the Office of Financial Management estimated that 27.2% of Washingtonians were people of color, up from 23.8% in 2008 and 20.6% in 2000. Washington's Hispanic population has been the fastest growing group, increasing from 9.3% in 2008 to 11.2% in 2010. The Asian and Pacific Islander population increased from 6.9% to 7.7% over the same period. In 2010, the Black and American Indian/Alaska Native populations accounted for 3.4% and 1.4% of the total population, respectively.²

Moreover, the foreign-born population in Washington State is growing. Between 2000 and 2011, the foreign-born population grew by 48.0% and in 2011, made up 13.3% of Washington's total population.³ The largest share of the foreign-born population was from Asia (39.8%) and the second largest was from Latin America (30.7%). The growth in the foreign-born population is important since in 2011, 46.7% of Washington's total foreign-born population was LEP.⁴ Further, in 2011, 4.2% of all households in Washington were linguistically isolated (i.e., all persons in the household age 14 and over were LEP). Washington State is among the top ten states with the largest LEP population and the highest growth in LEP population.⁵ Currently, there are more than half a million LEP persons in Washington State and the percent of the population age 5 and above living in households where English is spoken less than "very well" has risen from 2.7% in 1980 to 8.0% in 2011.⁶ The most prevalent languages spoken are Spanish, Chinese, Vietnamese, Korean, and Russian.

Federal Requirements for Providing Language Assistance Services:

- [Title VI of the Civil Rights Act](#) ensures no person can be excluded from participation, denied benefits, or subjected to discrimination on the grounds of race, color, or national origin by any recipient of federal financial assistance.
- In *Lau v. Nichols* (1974), the Supreme Court interpreted Title VI as ensuring that LEP individuals are not excluded from participation in federally-funded programs, establishing a link between discrimination based on national origin and discrimination based on language.
- On August 11, 2000, the President signed [Executive Order 13166](#), which required each federal agency to develop a plan to improve access to programs and activities for LEP persons and to draft guidance for its recipients of financial assistance based on guidance from the Department of Justice.
- In February 2011, U.S. Attorney General Eric Holder, issued a [memorandum](#) reaffirming the federal government's commitment to language access obligations under Executive Order 13166. The memorandum listed specific requirements each federal agency must comply with, including developing agency language access working groups and regularly updating agency policies, plans, and protocols.

Four-Factor Analysis

The Department of Justice guidance document ([DOJ Guidance](#)) outlines a four-factor analysis for agencies to consider when developing a plan to ensure meaningful access to the information and services they provide. The four-factor analysis includes:

1. The number and proportion of LEP individuals served.
2. The frequency of contact LEP individuals have with the program or service.
3. The nature and importance of the program.
4. The resources available.

² Washington State Office of Financial Management. [Total Population by Race, age, sex and Hispanic Origin: 2010](#).

³ Migration Policy Institute (2012). MPI Data Hub: [Washington Social and Demographic Characteristics](#).

⁴ Migration Policy Institute (2012). MPI Data Hub: [Washington Language and Education](#).

⁵ Migration Policy Institute (2011). National Center on Immigrant Integration Policy. [LEP Data Brief: Limited English Proficient Individuals in the United States: Number, Share, Growth, and Linguistic Diversity](#).

⁶ Washington State Office of Financial Management. [Languages Spoken at Home](#) (modified May 1, 2013).

Washington Statewide⁷ Requirements for Providing Language Assistance Services:

- Washington State law against discrimination ([RCW 49.60](#)) prohibits discrimination based on race, creed, color, national origin, sex, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.
- Washington State policy on diverse cultures and languages ([RCW 1.20.100](#)) welcomes and encourages the presence of diverse cultures and the use of diverse languages in business, government, and private affairs in the state.

Recent Washington Statewide Activities:

- The 2012 Supplemental Budget included a proviso requiring the Office of Financial Management to determine if interpretive services could be contracted in a more effective manner. In response, the office conducted a survey of state agencies to determine which agencies use interpretation services, how those services are obtained, and the cost of such services. The final report, [Study of Procurement of Interpreter Services](#) was submitted in February 2013.
- The Council, through a federal grant, convenes an Interagency LEP Workgroup. This is an informal workgroup of state agency staff who work on language access issues in their respective agencies. The workgroup serves as a forum for staff to learn from each other and leverage resources.
- Recent legislative proposals related to language access have focused on consolidating procurement of language assistance services, collective bargaining for interpreters, and improving access to language services in the education sector. To date, no comprehensive proposals to ensure access to all state services for LEP persons have been introduced.

Washington State Agency-specific Activities:

- Known examples of state agencies with written language access policies and plans include: Transportation, Corrections, Social and Health Services, Health Care Authority, and Employment Security. Several other agencies are currently working to develop written policies and plans.
- Knowledge of language access issues and provision of services among state agencies is uneven. Agencies providing language services are doing so in unique ways to meet agency-specific needs.

Comprehensive Language Access Policies in Other States:

- **Minnesota** law includes [communications service provisions](#) related to hiring of bilingual employees and interpreters and translating materials.
- In 2001, the **Maryland** General Assembly passed a bill requiring a survey to assess the need for interpretation and translation services by state departments, agencies, and programs. In 2002, Maryland adopted a law ensuring equal access to public services for individuals with limited English proficiency ([Title 10-1101](#), [10-1102](#), [10-1103](#), [10-1104](#), and [10-1105](#)).
- In 2004, the **District of Columbia** adopted the [Language Access Act of 2004](#).
- In 2006, the **Hawaii** Legislature enacted the Language Access Law (Act 290) – the law was later amended in 2008, 2009, 2012, and 2013 ([Hawaii Revised Statute 321C](#)).
- In 2011, **New York** Governor Cuomo issued [Executive Order No.26](#) creating a Statewide Language Access Policy.
- In 2012, the **Massachusetts** Office of Access and Opportunity issued [Administrative Bulletin #16](#) - Language Access Policy and Guidelines for executive branch agencies to develop and implement language access plans.

Table 1 provides a list of elements common to many of the statewide policies listed above.

⁷ This briefing document focuses on statewide efforts. Policies that require the provision of language assistance services and/or prohibit discrimination in certain settings (e.g., courts), sectors (e.g., education), or by certain agencies are beyond the scope.

Table 1: Common Provisions of Statewide Language Access Policies

	Assessment, Translation, Interpretation	Coordinating Entity	Agency Points of Contact	Agency Plans
Minnesota	Directs agencies to assess needs using the four-factor analysis, to employ enough bilingual persons or interpreters, and to translate materials to ensure provision of information and services in the language spoken by a substantial number of LEP individuals.	The Commissioner of Administration is charged with determining application of the law to each state agency.	No provision.	No provision.
Maryland	Directs agencies (in a phased-in schedule) to provide interpretation services and translate vital documents for languages spoken by 3% of the service area.	Assigns central coordination and technical assistance to the Department of Human Resources in consultation with the Office of the Attorney General.	No provision.	No provision.
District of Columbia	Directs agencies to utilize the four-factor analysis and provide interpretive services based on results. Directs agencies to translate vital documents in languages spoken by 3% of the population served (or 500 people), whichever is less.	Establishes the position of Language Access Director in the Office of Human Rights to provide oversight, central coordination, and technical assistance.	Directs agencies to designate a language access coordinator who reports directly to the agency's Director. The coordinator is responsible for providing public outreach and obtaining input to guide the agency's plan development.	Directs agencies to establish language access plans and to update the plans every 2 years. Provides for a phased in implementation schedule.
Hawaii	Directs agencies to assess language needs using the four-factor analysis, to provide interpretation services, and to translate vital documents for languages spoken by 5% of the population served (or 1,000), whichever is less.	Establishes an Office of Language Access within the Department of Health and assigns oversight to the Office's Executive Director (ED). Requires the ED to maintain a resource center, provide training, and work to create a certification process among other requirements. Establishes a language access advisory council.	Directs agencies to designate a language access coordinator.	Directs agencies to establish a language access plan.
New York	Directs agencies to translate vital documents into the six most common languages and to provide interpretation services.	Assigns oversight and coordination to the Deputy Secretary for Civil Rights.	Directs agencies to appoint a language access coordinator to monitor compliance.	Directs agencies to publish a language access plan to include an employee training plan among other requirements.
Massachusetts	Directs agencies to use the 4-factor analysis, provide interpretation services, and to translate vital documents (including website information) for languages spoken by 5% of the population served.	The Office of Access and Opportunity within the Executive Office for Administration and Finance created a policy and guidelines and serves in a coordinating, oversight, and technical assistance role.	Directs agencies to designate a language access coordinator who reports to the agency head and is responsible for agency implementation and compliance.	Directs agencies to develop a language access plan consistent with the guidelines and to update every two years. Plans must include a needs assessment, resource assessment, protocols, and a training plan among other requirements.

Select City and Other Local Activities:

- A growing number of cities, including San Francisco, Oakland, Philadelphia, and New York City (to name just a few) have ordinances and/or executive orders in place related to language access to city services.
- In October 2010 in Washington State, King County Executive Dow Constantine issued an [Executive Order](#) on written language translation processes. The executive order establishes a translation process and sets minimum requirements for determining which documents must be translated.
- The New York City Mayor's Office of Immigrant Affairs and Office of Operations recently released a white paper, titled [Language Access 2.0 – Sharing Best Practices, Improving Services, and Setting Future Goals](#), which provides guidance to other states and municipalities considering the adoption of comprehensive language access policies and plans. In 2013, the New York City Office of Immigrant Affairs released a [Blueprint for Language Access](#).

Best Practices

The New York City Office of Immigrant Affairs has identified the following best practices for states and municipalities to include in comprehensive language access policies and plans:

- Requiring all agencies to develop and implement language access plans with deadlines and containing key elements:
 - Assessment of appropriate language assistance needs using the four-factor analysis
 - Identification and translation of essential public documents
 - Provision of quality and timely interpretation services
 - Procedures for training staff on the policy and agency procedures
 - Posting of signage about the availability of interpretation services
 - Measurement and reporting system to track services provided
 - Public awareness strategies
- Providing central coordination at a high level (executive level if possible) to ensure prioritization of language access across agencies. The central coordinating entity should oversee implementation and compliance and develop resources, tools, and templates to facilitate implementation across agencies.
- Requiring all agencies to designate a language access coordinator to oversee and implement their respective agency plans. The central coordinating entity should convene regular meetings of the agency coordinators.