



DCYF LANGUAGE ACCESS PLAN PROGRESS REPORT



Washington State Department of
CHILDREN, YOUTH & FAMILIES

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Administrative Services | Approved for distribution by Jennifer Williams, Director of Administrative Services



Washington State Department of
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Executive Summary

The Washington State Department of Children, Youth, and Families (DCYF) received an appropriation for fiscal year 2022 for the development of a language access plan (LAP) that addresses equity and access for immigrant and multilingual providers, caregivers, and families. Per Legislative direction, the plan must include, but is not limited to, the following:

- (a) Needs assessment and staffing recommendations for program accessibility for individuals with limited English proficiency (LEP) and an analysis of language needs in Washington;
- (b) Review of successful language access policies and practices in public agencies to determine how other entities have effectively addressed the needs of non-English speaking clients (throughout this report, the term “client refers” to any family member, child, or youth with whom DCYF has contact or interaction; any individual who reports a concern to DCYF; child care and early learning providers or applicants; foster families or applicants; kinship care providers; families who adopt; and children and youth receiving juvenile rehabilitation services).
- (c) Alignment of best practices across DCYF in multilingual workforce development;
- (d) A framework for proactive community engagement to provide clients who speak languages other than English access to information and support in navigating English-dominant state resources at the department;
- (e) Recommendations for a continuous improvement model of measuring progress and success in language access;
- (f) Compliance with federal and state laws.

This report addresses the development of the LAP at DCYF. It describes the progress toward meeting the above goals, lays out the barriers and potential solutions for creating the comprehensive, agency-wide LAP, and outlines the next steps in the strategy to continue the construction of the LAP.

Language access is necessary for reasons of equity and fairness to DCYF clients, essential to promote communication and understanding between staff and clients, and required in order to maintain compliance with federal law. A formal Language Access Plan is the mechanism for planning and implementing these goals. Currently there are no agency wide language procedures, processes or unified methods to language access. There is no centralized team to ensure that there are centralized consistent language access supports agency wide. Meanwhile, language needs are growing in the state of Washington, and the number of languages spoken is on the rise.

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DCYF has begun the process for language access planning. The agency assessed the current methods for language access; compiled the existing data on language needs; created an internal agency stakeholder group to discuss language needs and opportunities; held individual discussions with staff; and contracted with a consultant who provided DCYF with a review of compliance, guidelines and recommendations.

This work revealed barriers to effective language access and to compliance with federal requirements. Barriers include: a lack of centralized policies, procedures and best practices around language access as well as the absence of a centralized language access team to be utilized agency-wide; a need for additional and ongoing community and stakeholder engagement; the need for more effective and consistent data collection; insufficient knowledge about policies and procedures and the importance of language access by staff; the current structure for accessing language interpreters does not easily accommodate the on-demand, emergency, non-appointment needs of the agency's work; among others.

Current testing methods for translators and interpreters are insufficient to meet growing needs; and Internet and intranet webpages currently reflect limited translated information.

Opportunities to meet these challenges include:

- Increasing staffing to support a cohesive, centralized team to coordinate language access programs and provide consistency throughout the agency, including a language access program manager to oversee, monitor and manage the program;
- increasing resources for translation and translating key elements, including existing forms and publications, of the DCYF website into a minimum of Spanish and other top languages;
- staff to gather language usage data from across DCYF's many data systems to support analysis of language needs, language access plan updates, and monitoring progress of plan implementation; contracted support to develop agency wide trainings to be delivered online to all current and new employees of DCYF to cover equitable language access, legal compliance, internal policies and procedures, and resources available to staff;
- and support for continuous community involvement in and assessment of DCYF language access programming.

The next step in the language access planning process is stakeholder engagement to gather input and ideas from community members and stakeholders on the barriers and catalysts to language access and to then incorporate this input into the LAP. DCYF will accomplish this by partnering with the University of Washington Evans School of Public Policy and Governance.

Background

Agency History and Current State of Language Access Practices

DCYF is a state agency that was created in 2018, and was formed from several other existing state government entities that supported children, youth and families. Each of those previous organizations had their own methods of working with LEP clients which means that currently each division within DCYF has its own way of dealing with language access issues, with inconsistent results.

Thus, there are presently no agency-wide processes, procedures or a plan to implement language access best practices that will ensure equity to the clients with which DCYF works, nor do current practices always ensure compliance with state and federal laws. Below are the practices in place and gaps that currently exist:

- There are some dual language staff who are utilized for interpretation, but the exact number of dual language staff throughout divisions and testing methods of the skills of such staff is unknown, and these staff have increased workloads without always having adequate compensation.
- There are a number of interpreter services that are utilized; but these contracts are often complicated, difficult for staff to access, and may not provide emergency or rare language services when needed.
- There are document translation services in place, but staff has expressed concern that translation services are slow, and there are no consistent guidelines identifying which documents are required by federal law to be translated.
- Staff are given information about Administrative Policy 6.02 Access to Services for Clients and Caregivers who are Limited English Proficient during an orientation training on agency policies. However, more in depth and continuing training of all staff across the agency is necessary for staff to fully understand the importance of language access, how to identify and record the needs of clients with LEP, and how to provide equitable language services for all clients.
- Current language data exists from counting the number of requests made for interpreter and translation services; but there are no consistent data collection requirements related to language access needs across the agency.
- Notice of language access rights exist in some places, but in order to be fully compliant with federal law, notice should be consistent and prominent throughout the agency; clients may not have a clear understanding of their language access rights and how to obtain language assistance, persons may not have knowledge of the method to file a complaint related to language access, and there is no assessment process in place for contracted providers and vendors.

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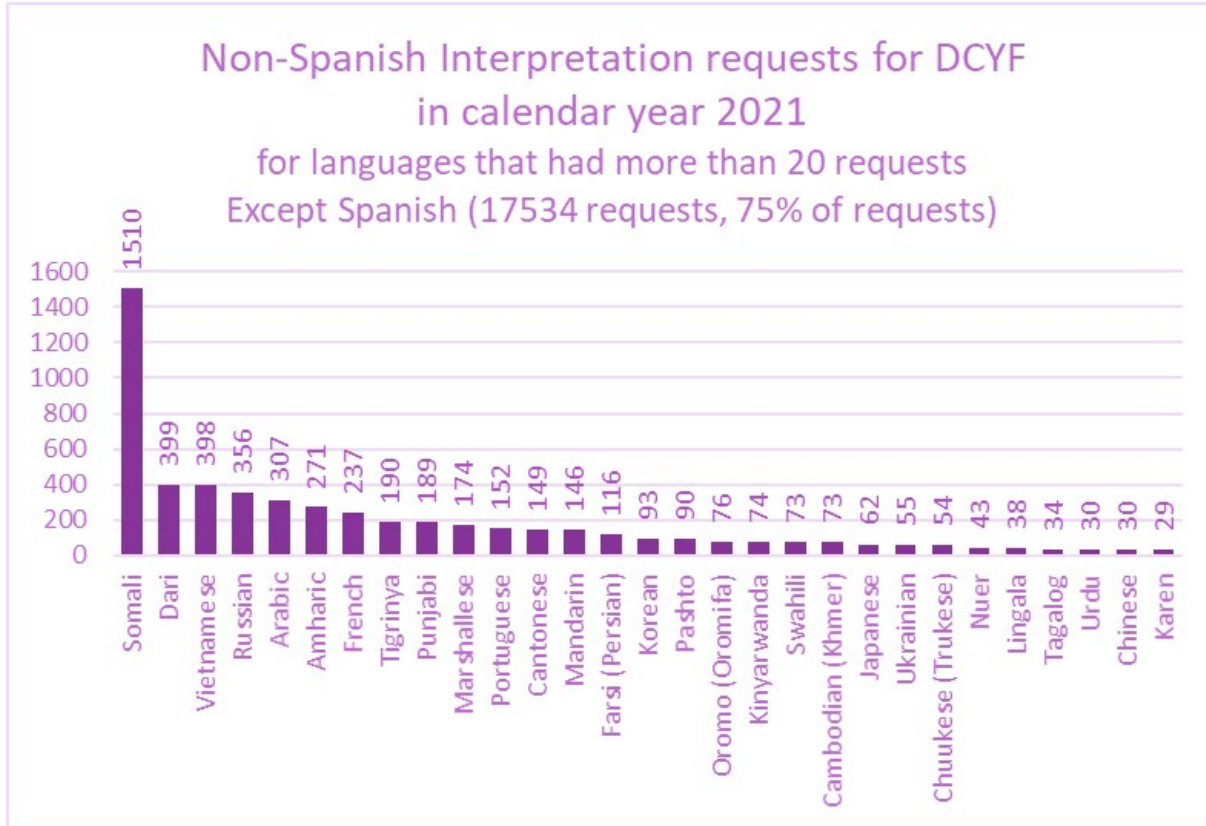
- There is no agency-wide process in place for continued community engagement and feedback related to language access needs.
- There is one permanent language access staff person who works with language access contracts and attempts to meet individual caseworker needs as they arise. There is no language access team with a leader and the ability to meet the complex needs of the dozens of DCYF field offices and program teams.

These shortfalls hinder the ability for agency staff to communicate meaningfully with clients and to build trust and working relationships, and for families to obtain the services they need to be safe and healthy.

The LAP is part of a broader initiative. DCYF has launched a strategic goal of becoming an anti-racist and pro-equity organization that prioritizes racial equity, diversity, inclusion, and justice as essential components of DCYF’s mission to protect children and strengthen families so they flourish. Language access is an essential component of this initiative.

Language Needs

The data below demonstrates the language access needs of DCYF. The first chart shows the number of requests for languages other than English. There were 17,534 requests for Spanish in 2021, with 29 other languages having 20 or more requests, and an additional 56 languages requested. It often can be difficult to find interpretation and translation services for these rarely requested languages. In addition, many of these languages, including often requested languages, have regional dialects that require specialized interpretation and translation services. Adding to the complexity of the issue, many people cannot read any language, but can only communicate orally.



There are four interpretation vendors represented in this chart.

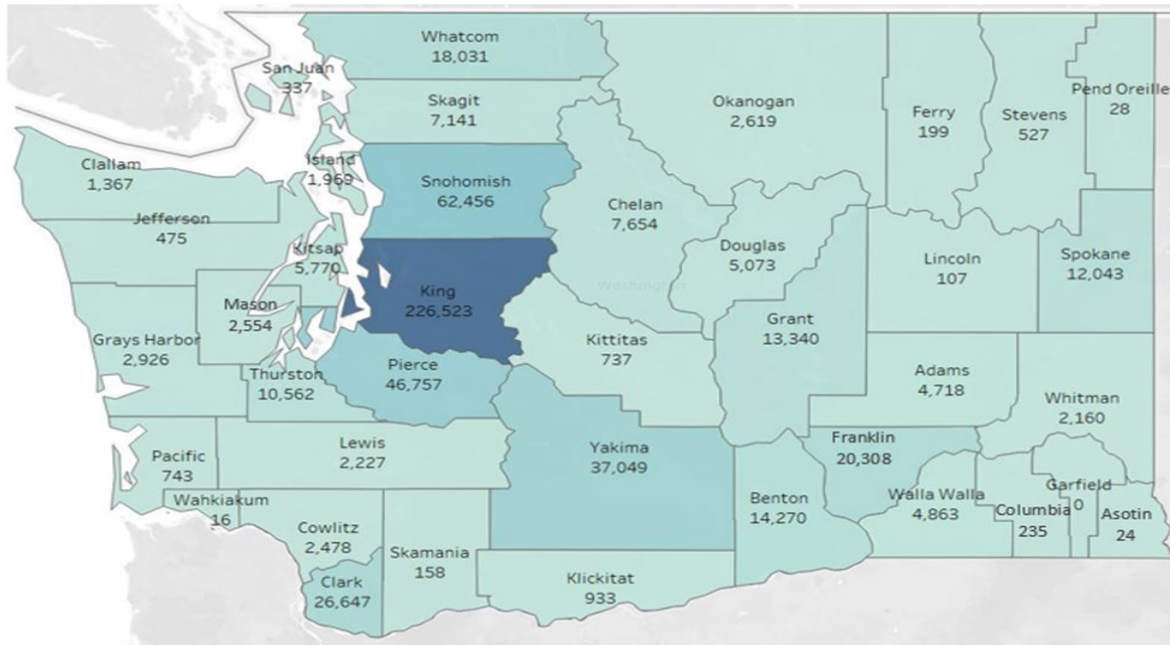
Languages with fewer than 20 requests, in descending order

Mam	Mixteco	Mixteco Bajo	Arabic-Saudi
Haitian Creole	Rohingya	Chuukese	Tongan
Samoan	Uzbek	Serbian	Igbo
Arabic-Syrian	Cambodian	MaayMaay	Chuukese (Micronesian)
Mongolian	Portuguese-Brazilian	Kikuyu (Gikuyu)	Akateko
Laotian	Dinka	Albanian	Fulani (Fula)
Nepali	Sudanese	Bulgarian	Taiwanese
Hindi	Kosraean	Kurdish	Visayan-Cebuano
Turkish	Bosnian	Kirundi	Mandinka (Mandingo)
Kirundi (Rundi)	Farsi	Mandinka	Armenian
Kanjobal	French Creole	Fula (Fulani)	Indonesian
Arabic-Egyptian	Soninke	Kurdish-Bahdini	
Arabic-Iraqi	Kunama	Filipino	
Burmese	Italian	Sango	
Thai	Wolof	Chin-Hahka	

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This chart provides a visual of the language needs in Washington state as a whole, providing numbers of people in each county of the state who speak English less than “very well”. This information is from the Census Bureau American Community Survey in 2020.



Number of people aged 5 and over who speak English less than "very well"
American Community Survey 2020, Census Bureau

Federal Legal Requirements

DCYF’s Language Access Program supports language access services as required by the Civil Rights Act of 1964, Title VI, which prohibits discrimination based on race, color, and national origin, and prohibits inequitable treatment of LEP populations. Limited English speakers are defined by the United States Department of Justice (USDOJ) guidelines, which reference the U.S. Census’s American Community Survey (ACS) criteria, as being a person 5 years or older and self-identifying as speaking English less than very well.

In addition, on August 11, 2000, President Clinton signed Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency. This Executive Order requires federally funded agencies to provide the same services for bilingual/multilingual clients as are provided to monolingual English-speaking clients.

Consequences of non-compliance with these federal requirements could range from complaints filed with DCYF itself by harmed individuals; to investigation of DCYF by the U.S. Department of Health and Human Services Office of Civil Rights or by the U.S. Department of Justice, possibly resulting in a settlement agreement; to a lawsuit filed by an individual or the U.S. Department of Justice resulting in a consent decree or judgment; to the withholding of federal funding.

More details of the legal mandates and guidelines surrounding language access can be found in Appendix B.

Overview

When an agency does not adequately provide for the language needs for its programs, providers and clients with LEP, families are less likely to access needed services, are unable to equitably participate in decision making processes, are less able to understand their rights, and are less likely to have the ability to stay within compliance of agency rules and regulations.

A Language Access Plan represents the procedures, processes, and best practices to help an agency promote language-based inclusion and enhance its capacity to serve LEP clients. The most important component for ensuring equitable engagement with LEP clients is equitable language access support services. Some key components of language access plans include:

- Efforts to identify and assess and identify LEP communities;
- Identification and translation of vital documents used to communicate with clients;
- Staff training;
- Implementation plan with objectives, timelines and benchmarks;
- Collaboration with LEP communities and other stakeholders.
- Funding and procurement to support the plan;

DCYF's Language Access Plan will revise and improve current methods of language access. The plan will ensure that services will meet the needs of clients who are LEP and will promote family and client success by increasing understanding and positive interactions between clients and staff. The plan will be proactive in providing equitable language services, and will strive to promote LEP to be valued in a person as representing the diversity of Washington State. The overarching framework of the language access plan will provide for consistency of practice throughout the agency while offering flexibility for divisions to meet the unique needs of their clients and service providers. Important to the process will be regular meetings with stakeholders and key organizations that support our clients and providers. The DCYF LAP will serve to strengthen community relations and interactions to create high quality language access services.

To ensure that LEP clients, and their languages and dialects, are identified and documented during the initial interaction between staff and family, the DCYF LAP will outline a more resource intensive and frontloaded interaction by DCYF staff that will require staff to first ask questions related to language and assess the family's ability to understand what is being communicated. This will assure better discussions and clearer communication of requirements and expectations between staff and clients. This type of service delivery will require training of staff and a cultural shift within the agency to be more mindful and anticipatory of the LEP clients' needs.

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This Language Access Plan will be a living document – as the needs of clients are better understood and/or change over time, DCYF will remain committed to updating this vital tool to ensure practices and procedures at the agency represent best current practice and are responsive to the communities we serve. Because of various timing constraints and hiring barriers, the development of this plan is not at the point the agency had hoped it to be at this time. However, DCYF has made great progress towards completing the plan and has done so in a thoughtful and thorough manner. The following is an explanation of where DCYF is in its process to develop and maintain this long-term planning resource.

What has been accomplished – Language Access Planning Stage 1

In 2021, the Washington State Legislature recognized the importance of comprehensive language access supports for DCYF. DCYF received \$250,000 in the 2021-23 operating budget to undertake the work necessary for developing a language access plan. This funding provided DCYF’s Language Access Program a means to conduct a preliminary assessment of current language access practices and needs and to begin developing an improved overarching LAP.

The initial expenditures allowed for:

- Meeting with DCYF staff across divisions to determine current gaps, needs and opportunities with language access;
- Distributing a language access self-assessment questionnaire to staff members throughout DCYF and summarizing and analyzing the results;
- Review of existing policies, procedures, internal and external websites, and language access plans developed by other state and local organizations;
- Contracting with a consultant, former DOJ Civil Rights Division Senior Trial Attorney, Bruce Adelson, President and CEO of Federal Compliance Consulting LLC;
 - Mr. Adelson completed a Compliance Review/Assessment Executive Summary of the Provision of Language Assistance Services at DCYF (see appendix A);
 - He also provide guidelines and recommendations for the agency to consider, which will be utilized as a framework for the final language access plan (see appendix B);
- Hiring a temporary Program Coordinator/Project Implementation Manager to support the proviso implementation;
- Analysis of current language access services (see above chart);
- An assessment of statewide language access needs through the use of tools such as the American Community Survey Census for 2020 (see above map);

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- Creation of an internal language access focus group supported by DCYF leadership and consisting of staff members throughout the divisions of DCYF;
 - Meetings were held on a monthly basis to discuss current practices and needs, and to share opportunities and ideas for implementation of an overarching agency-wide plan;
 - Individual division language access practices were gathered and reviewed;
- Initial outreach to public agencies statewide that have established language access services statewide to glean from their experience and to extend invitations for future collaboration;
- Initial meetings across the state with constituent advocacy groups, LEP identified communities, and DCYF staff to evaluate the ability of current policies and practices to meet language service needs of LEP.

Initial Findings and Recommendations

The consultant hired to advise DCYF on the legal framework for its Language Access Plan found that there were some key gaps in meeting the agency’s obligations under Executive Order 13166 and Title VI of the Civil Rights Act of 1964.

Currently, DCYF’s language access services are offered in a fragmented and inconsistent manner across interagency divisions and offices. During individual and focus group meetings, staff and stakeholders noted the following barriers to language access:

1. FINDING – There is a lack of consistent practices between divisions, no unified approach or connection between agency divisions as related to language access, and little centralized support for language access.
 - RECOMMENDATION – The LAP will specify the utilization of additional resources to build and improve agency infrastructure. For the 2023-24 biennial budget, DCYF requested¹ six new staff for language access coordination. These six staff will form a cohesive, centralized team to support coordination and consistency of translated materials, provision of interpreter services, internal best practice and policy development, outreach to community organizations, and other means of increasing language access and equity for providers and caregivers in health and safety,

¹ Read DCYF’s Culturally Relevant Language Access Program decision package here: <https://www.dcyf.wa.gov/sites/default/files/pdf/ML-LALanguageAccessPlan.pdf>. Or read a summary of the package here: https://www.dcyf.wa.gov/sites/default/files/pubs/GC_0034.pdf

- licensing and regulations, and public funding opportunities for programs offered by the agency. There will be at least one coordinator who supports each division of DCYF, to ensure that each division has the knowledge, resources, and support necessary to follow and implement the LAP. The team will be led by a language access program manager. This position will manage implementation, monitoring and accountability, updates and continuation of the language access plan, oversee language access coordinators, manage efficacy of overall service programming, design trainings for DCYF staff, and pursue partnered research or pilots. This centralized team will provide much needed consistency and unity around language access for the entire agency and will act as a valued resource on language access issues for all staff.
2. FINDING - There is need for additional and ongoing community and stakeholder engagement for language access issues.
 - RECOMMENDATION – Stakeholder input and ideas are essential to the next stage of development of the LAP. As an important component in building the LAP, staff and student consultants from the University of Washington Evans School of Public Policy and Governance will conduct outreach to and gather feedback from stakeholders and community groups that support DCYF client populations. The information gathered during this engagement regarding challenges, success, and opportunities related to equitable language access will be incorporated into the LAP. Additionally, the student consultation team will provide recommendations for ongoing stakeholder engagement, which will also be incorporated into the LAP. Based on the information gathered by the Evans School students, the LAP will outline steps for continued engagement of community members and organizations to participate in focus groups and meetings to ensure that there is ongoing feedback about the effectiveness of the plan, and to implement any needed changes over time. The agency also requested funding to support this community participation in ongoing language access partnerships: this includes stipends for lived experiences and mini-contracts with local community organizations to provide culturally relevant feedback on language access processes, products, and services.
 3. FINDING – DCYF does not effectively collect data about language access needs.
 - RECOMMENDATION – The LAP will create procedures that require, at the beginning of every interaction between clients and DCYF staff in all divisions, documentation of each client’s preferred language and dialect. The LAP will specify how languages will need to be recorded in the relevant case file or database, and will outline proposed implementation of this solution to require IT system updates to include fields for preferred language and dialect (not just country of origin) for both translation of documents and spoken word. The LAP will further outline how these data system

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changes will be accompanied by internal policy and procedure updates, and through staff training. DCYF requested for its 2023-25 budget a partial FTE to gather language usage data from across DCYF's many data systems to support analysis of language needs, language access plan updates, and monitoring progress of plan implementation.

4. FINDING – There is insufficient knowledge about policies and procedures and the importance of language access. Staff reported confusion about proper procedures in determining who needs interpreter services, how to procure interpreter services, and even when an interpreter is necessary; staff reported difficulties in obtaining translation of documents; staff may be neglecting to record information in the case file that a family or extended community member participated as an interpreter for the client; and staff may not have a suitable understanding of why language access is important.
 - RECOMMENDATION - Additional and consistent training of all staff across the agency is needed for staff to fully understand the importance of language access, how to identify clients with LEP, and how to provide equitable language services for all clients. For this, DCYF requested funding for contracted support to develop agency wide trainings to be delivered online to all current and new employees of DCYF. Trainings will cover equitable reasons for language access, legal obligations for agency and individual staff compliance with Title VI of the Civil Rights Act and Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency. Trainings will also cover internal policies and procedures for meeting language access needs of clients, documentation requirements, and resources available to staff to meet these requirements.

5. FINDING - Interpreter and translation procurement is a complex and costly process of management and monitoring. DCYF has found that the current structure for accessing language interpreters does not easily accommodate the on-demand, emergency, non-appointment needs of the agency's work.
 - RECOMMENDATION - DCYF recommends that the Legislature, Office of Financial Management and/or Department of Enterprise Services consider these on-demand and emergency needs when addressing language access services. More flexibility should be available to accommodate urgent and emergent situations that require specialized translation or interpretation services. Any models that are developed need to support telephonic and video remote technologies that are three-way and on-demand. The LAP will outline processes to implement

streamlined interpreter and translation services and will require the updating of procedures to simplify access by staff to these services.

6. FINDING - Certification of interpreters and translators is currently conducted by DSHS's Language Testing and Certification program, but the current process does not have the capacity for testing large numbers of applicants nor do the tests reflect updated standards for languages that are less common.
 - RECOMMENDATION - DCYF recommends support for a statewide testing solution and strategy that relies upon multiple testing modalities and provides all qualified individuals with an opportunity to become an interpreter or translator. Testing could be through Office of Financial Management, Department of Enterprise Services, or the Office of Equity.

7. FINDING - Internet and intranet webpages currently reflect limited translated information. In addition, not all of the divisions present vital information with consistency nor are access points to information user-friendly. There is currently reliance on Google Translate for much of the information found on the website, but there is no process or personnel to assess the quality and accuracy of these online translations.
 - RECOMMENDATION – DCYF requested funding to identify and translate all vital documents, including existing forms and publications, throughout all divisions, that are found on the DCYF website, into a minimum of Spanish and at least two other top languages. There will also be a standard footer on all pages on how to request the information in additional languages. The LAP will outline how to identify vital documents, and will specify the top languages into which these documents must be translated. The LAP will also outline a process to ensure that all translated vital documents are easily available for staff use and consistently updated along with their English versions.

Next Steps – Language Access Planning Stage 2

The next phase of the LAP development will entail gathering input and ideas from community members and stakeholders. To ensure the next phase is a success and will guide the development of the LAP, DCYF is partnering with the University of Washington Evans School of Public Policy and Governance Consulting Lab to conduct, with community members, a stakeholder engagement effort on the language access needs of DCYF's providers and clients. The project entails Master degree students, under the guidance of a professor, completing the following tasks:

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- Provide a report outlining an analysis of barriers and opportunities, as identified by stakeholders, of equitable access to DCYF’s services and decision-making opportunities by persons with LEP.
- Provide recommendations for ongoing stakeholder engagement efforts that can be conducted by DCYF’s future language access coordinator team. This will include recommendations on how the new language access coordinators can build and maintain community partnerships to support language access strategies, and how they can ensure the language access plan is continuously updated to reflect emerging language needs.
- Provide recommendations for how DCYF can incorporate culturally and linguistically relevant community engagement into its general stakeholder engagement efforts.

Students will accomplish these steps by reviewing the guidelines and recommendations put together by Bruce Adelson, reviewing existing language access plans at other state and local agencies, conducting a series of focus groups or other engagement opportunities in collaboration with agency community partners to gather feedback directly from DCYF clients and service providers across DCYF’s lines of service and from across Washington State, conducting interviews with DCYF partner organizations to assess their language access practices and gather feedback on their ideas for improved language access services at DCYF, and meeting with the DCYF internal language access staff workgroup to understand how they are currently engaging with stakeholders/clients/providers with limited English proficiency.

Students will present their findings to DCYF, and DCYF will incorporate these findings into the LAP. This process will ensure community engagement in the development of the LAP, and methods of continued community engagement to measure the success of the plan.

Conclusion

With the resources originally dedicated for this purpose DCYF is well on its way to developing a Language Access Plan to provide reasonable steps to ensure that communications between DCYF and the LEP client is not impaired, reduced, and/or hindered as a result of the limited English proficiency of the individual. The assurance of meaningful access would include delivery of information, access to all DCYF programs, and accessible provision of family services by contractors to optimize the LEP community experience. The LAP will be DCYF’s statewide language access guide that: 1) frames culturally relevant policy design into each component of operational infrastructure development; 2) reflects built-in monitoring and assessments that measure clients’ language access experience and allow programming to make timely adjustments to improve where necessary; 3) provides a roadmap for a new language access team to provide support and training to enable DCYF staff to achieve client-centered service success that embodies best practice measures; and 4) incorporates mindful community

partnership development that embraces equitable language access. DCYF expects that the first iteration of this plan will be complete by July 1, 2023.

Appendix A: Contractor Compliance Review/Assessment Executive Summary

Compliance Review/Assessment Executive Summary of the Provision of Language Assistance Services by Washington State Department of Children, Youth, and Families

March 11, 2022

Prepared by:

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Who We Are:

Bruce Adelson is the President and CEO of Federal Compliance Consulting LLC and is the author of this report. He is a former U.S Department of Justice (DOJ) Civil Rights Division Senior Trial Attorney and had national enforcement responsibility for federal language access laws including but not limited to Title VI of the Civil Rights Act of 1964.

Professor Adelson is a faculty member at Georgetown University School of Medicine and the University of Pittsburgh School of Law where he teaches organizational culture, diversity, equity, implicit bias, civil rights, and cultural awareness. He has also taught at Harvard University, Cornell University, Auburn University, The Johns Hopkins University School of Public Health, and University of Baltimore School of Law.

Professor Adelson conducts organizational culture, civil rights, cultural competence, and Title VI of the Civil Rights Act of 1964 assessments from coast to coast for state and local government agencies, health care providers, and multi-state health systems. He has been the

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Title VI testifying expert in many federal lawsuits alleging language access and national origin discrimination against multiple organizations.

Methodology:

Throughout our assessment, Professor Adelson relied upon his U.S Department of Justice and Federal Bureau of Investigation training in investigative techniques, analysis, interviews, and fact gathering. He further relied upon his Title VI, DEI, and organizational culture expertise achieved through his federal enforcement, Title VI litigation, compliance assessment expertise, and his medical and law school teaching scholarship.

In our compliance review, we had several meetings with multiple employees from various DCYF departments. We met with multiple DCYF staff from myriad departments, including but not limited to: Child Welfare and Juvenile Rehabilitation, Licensing Division, Professional Development, Early Learning Division, Human Resources, Early Support for Infants and Toddlers, Early Childhood Education and Assistance Program, Foster Care, and ECEAP Pre-K.

During each meeting with DCYF employees, we identified the scope of our project and asked them to identify improvements to facilitate their responsibilities. DCYF employees provided their responses without any prompt or suggested answer, making their statements all the more salient and reliable, based upon Professor Adelson's training, experience, and scholarship.

We reviewed DCYF-provided links to multiple internal and external websites including but not limited to:

- <https://dcyf.wa.gov/>
- <https://www.dshs.wa.gov/office-of-the-secretary/language-testing-and-certification-program>
- <https://www.dshs.wa.gov/office-of-the-secretary/test-information>
- <https://www.dshs.wa.gov/sites/default/files/ltc/documents/ExamManualWebVersion.pdf>
- <https://www.actfl.org/>
- <https://www.hca.wa.gov/billers-providers-partners/programs-and-services/interpreter-services>
- <https://apps.des.wa.gov/DESContracts/Home/ContractSummary/03514>

We also used other websites not provided by DCYF for our analysis, including but not limited to federal agency websites for updated compliance and enforcement information.

In addition, we reviewed and analyzed Washington State and U.S. Census data, DCYF data about languages spoken by interpreters used by DCYF staff, DCYF policies, procedures, and other materials.

We reviewed and analyzed data provided by DCYF and data we discovered ourselves relating to LEP populations and DCYF language services including but not limited to federal and state Census and related data, DCYF-provided Clients served within the Child Welfare section between 07/01/2018 and 08/31/2019, and DCYF-provided LAP LEP Child Welfare Data July 2021.

The U.S. Census Bureau's American Community Survey determined that one million Washington State residents live in non-English-speaking homes. According to the Washington Office of Financial Management, 19.6% of state residents who are five years of age or older live in a household where a language other than English is spoken.

However, an important data-specific cautionary note is needed here. DCYF's U.S. Census based language data will soon be obsolete. On March 17, the Census Bureau will [release](#) the standard, full suite of [2016–2020 American Community Survey](#) (ACS) 5-year data products, including data down to the block group level for all 50 states, the District of Columbia, and Puerto Rico. The ACS provides LEP and non-English languages spoken at home data. We strongly encourage DCYF to download, process, and analyze the data when first available. In our compliance review/assessment, we found no information about DCYF's preparations for informing staff about the March 17 data release, analysis of the new data, and incorporation of the new data into DCYF language access policies and overall compliance.

We base the following conclusions on the foregoing data points, including most prominently DCYF staff comments and opinions, our knowledge of how other state and local governments agencies provide spoken and written language assistance, and federal agency requirements and expectations for compliance with federal language access mandates, primarily Title VI of the Civil Rights Act of 1964, its implementing and additional regulations, federal agency guidance, directives, advisories, and enforcement agreements, and court decisions.

As a recipient of federal financial assistance, directly from federal agencies or as a pass-through recipient from Washington State, DCYF has legal and contractual obligations to provide limited English proficient (LEP) people with "meaningful access" to DCYF programs, services, and activities. It is through this "meaningful access" mandate that we assess and evaluate DCYF language access compliance and practices.

Compliance Review: Executive Summary Conclusions:

Most of the DCYF employees we met with had some knowledge of DCYF language capabilities, such as interpreters and translators and the DCYF Language Assistance poster. Most DCYF employees interviewed had direct or indirect (i.e., through a colleague) experience working with LEP people.

DCYF employees revealed significant interest in providing effective language services to their LEP clients and families. They are largely highly motivated to provide the “meaningful access” required by law.

DCYF has myriad policies and procedures that relate to issues of equity, social justice, discrimination, and language assistance, which we have reviewed and analyzed. For example, they include but are not limited to:

- Chapter 6 Racial Equity and Social Justice 6.02 Access to Services for Clients and Caregivers who are Limited English Proficient (LEP);
- Chapter 6 Racial Equity and Social Justice 6.01 Racial Equity and Social Justice;
- Chapter 11 Human Resources 11.19 Dual Language Employee Assignment Pay;
- Chapter 11 Human Resources 11.13 Preventing and Addressing Discrimination, Harassment, Sexual Harassment, and Retaliation; and
- LANGUAGE ACCESS PROVIDER REPORT RCW 41.56.510 (12) (HB 2691, Chapter 289, Laws of 2020.

According to DCYF, the following chart outlines the primary spoken languages encountered by DCYF staff as of July 2021:

Language	Count of Clients
Spanish	5,813
Russian	116
Vietnamese	116
Other Language	97
Somali	91
Cambodian	79
Marshallese	79
Arabic	57
Burmese	46
Swahili	45
Tigrigna	31
Farsi	24
Unknown	22
Mandarin (Chinese dialect)	21
Tagalog	20
Ukrainian	19
Korean	18
Amharic	18

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Chinese (General)	17
Punjabi	16
Laotian	15
Romanian	15
French	14
Samoan	14
Dari	13

The American Community Survey determined that one million Washington State residents live in non-English-speaking homes. According to the Washington Office of Financial Management, 19.6% of state residents who are five years of age or older live in a household where a language other than English is spoken.

The top non-English languages spoken in these homes are:

- Spanish and Spanish Creole - 521,751
- Chinese Languages (Cantonese, Mandarin, etc.) - 81,650
- Vietnamese - 60,094
- Russian - 56,537
- Tagalog - 54,878
- Korean - 48,065
- African Languages - 40,932
- German - 32,474
- Pacific Island Languages - 28,213

There are differences between DCYF data for languages encountered and American Community Survey data for Washington State. The differences raise questions for further investigation, such as why are Chinese and Tagalog speaking clients encountered much less frequently by DCYF than the total number of people speaking these languages in the general population may suggest. This may indicate a population that is underserved or feels excluded from DCYF programs, services, and activities. As discussed below, DCYF compliance with Title VI, such as through the DCYF-wide implementation of the Four Factor Analysis and adherence to the “likely to encounter” regulatory mandate will best inform how DCYF provides effective language services to meet the “meaningful access” requirement.

During each meeting with DCYF employees, we identified the scope of our project and asked them to identify improvements to facilitate their responsibilities. DCYF employees provided their responses without any prompt or suggested answer.

In response to our inquiries, virtually all interviewed DCYF employees identified more and better training and more clearly defined policies and procedures that are implemented consistently throughout DCYF as desired department-wide improvements. If no such policies and procedures currently exist, DCYF employees asked for their swift development and implementation. DCYF employees further stated that language assistance policies and procedures, to the extent they exist, are not centralized in one place or document, such as an effective, compliant Language Access Plan. All employees with whom we spoke stated that such a Language Access Plan and related implementation training are very much needed at DCYF. Employees provided these comments and opinions without any prompt or suggestion, making their statements all the more salient and reliable.

The following represents our additional assessment/compliance review significant findings based upon our analysis and DCYF employee comments and statements:

- According to DCYF staff comments, language access is an “afterthought” for some DCYF offices;
- Among DCYF employees, departments, and offices there are Inconsistent approaches to providing language access resources in a “timely way;”
- DCYF’s website has a Google Translate button. DCYF staff stated that some DCYF employees use Google Translate or other online translation tools in providing language services to LEP people. However, several federal agencies including the Departments of Justice, Health and Human Services, and Education and federal courts have all opined that online translations are not reliable enough to rely upon without a qualified human translator vetting online translations for accuracy and making the necessary corrections. DCYF staff told us that they are unaware of DCYF using qualified human translators to verify the accuracy of online translations;
- Paying for language services. This was an ongoing issue across all of our meetings. Employees stated that there are often disagreements among DCYF departments about which department pays for any given language services. Budgetary concerns are often cited as reasons for not providing federally mandated language assistance. The cited monetary and budget issues conflict

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with DOJ policy. According to DOJ: “Language services expenses should be treated as a basic and essential operating expense, not as an ancillary cost. Budgeting adequate funds to ensure language access is fundamental to the business of [federally subsidized state agencies];”

- DCYF employees are unfamiliar with the Four Factor Analysis and are unaware if DCYF uses the Analysis in the department’s provision of language services.

The four factors are:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the grantee;
2. The frequency with which LEP individuals come into contact with the program;
3. The nature and importance of the program, activity or service provided by the program to people’s lives; and
4. The resources available to the grantee/recipient and costs.

Federally subsidized organizations need a formula to help them determine the how, when, where, and to whom of federally required language assistance. The Four-Factor Analysis, developed by the U.S. Department of Justice is recognized by federal agencies as the fundamental first step in determining how to comply with Title VI’s language assistance mandates and provide LEP people with “meaningful access” to federally funded programs. The analysis is also a key box to check for federal regulators when conducting Title VI investigations or evaluations of an organization’s language assistance compliance. According to DOJ: “[Federal funding] recipients may want to consider documenting their application of the four-factor test to the services they provide.” As an essential tool, the Four-Factor Analysis is mandated by federal agencies in their consent agreements and enforcement actions for organizations to use in assessing the “language needs of the population to be served;”

- Confusion and uncertainty about DCYF language access processes. DCYF staff explained that such processes vary depending upon the DCYF office or department involved;
- Title VI is “not common knowledge” among DCYF staff;
- According to DCYF staff, there are no compilations of “vital documents” DCYF-wide or by individual offices and departments and little to no understanding of

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what is a “vital document.” According to one employee, there is “No go to list of what to translate.”

Vital documents are defined in DOJ and HHS Title VI guidance. They are significant indicia of Title VI compliance. According to DOJ: “**Vital Documents** shall include, but are not limited to: applications; consent forms; complaint forms; letters or notices pertaining to eligibility for benefits; letters or notices pertaining to the reduction, denial or termination of services or benefits or that require a response from the LEP person; written tests that test competency for a particular license, job, or skill for which knowing English is not required; documents that must be provided by law; and notices regarding the availability of free language assistance services for LEP individuals and written notices of rights...;”

- One of the most salient parts of Title VI compliance is data – data about the languages encountered by DCYF employees administering department programs, services, and activities and populations likely to be encountered by DCYF (See: DOJ Title VI Regulations, 28 C.F.R. § 42.101 et seq.). Title VI requires active data and analysis to determine languages the department may encounter, factoring in changing demographics and new immigrant communities. We are unaware of DCYF efforts to determine why certain languages are not being encountered by staff and what new languages are “likely to be encountered” going forward;
- DCYF employees related that there is little agency wide language access and Title VI training other than a short new employee training. Some employees questioned the effectiveness of training provided;
- We are uncertain whether DCYF has a central, fully trained DCYF Title VI Coordinator for the entire department and coordinators for internal offices that work with LEP people. The coordinators would be responsible for DCYF Title VI compliance, implementation, and training;
- DCYF has no Title VI grievance and complaint procedure for LEP people who believe they have been discriminated against based on national origin or language;

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- DCYF employees opined that there is insufficient organizational understanding of how translations can vary by dialect, region, and country;
- DCYF has no language skills assessment of bilingual employees that is job based. Title VI language proficiency is based upon overall language fluency and fluency in terminology related to specific agency responsibilities. According to DOJ: Compliant language assistance must include knowledge of and fluency with relevant terminology. Personnel who provide language assistance must “...have knowledge ... of any specialized terms or concepts peculiar to the entity’s program or activity and of any particularized vocabulary and phraseology used by the LEP person.”

Determining language fluency is achieved through an assessment and evaluation process. However, while there is no federally required standard for assessing language skills, the assessment itself is required. As USHHS has stated, its federal financial assistance recipients must: “Devise criteria for assessing bilingual staff to determine ability to provide services in languages other than English and to provide competent interpreter services;”

- Some employees identified differences in testing for Spanish and Somali language proficiency, suggesting the Somali testing is easier than for Spanish. Such a disparity once verified would raise potential disparate treatment concerns; and
- Three-week delay in Somali translations, according to DCYF employees. There is no comparable delay for Spanish translations. We understand there is a state-based Somali translation requirement. However, DCYF encounter data and Census data do not support translating most or all documents and materials into Somali, similar to the level of translation for Spanish.

Language Access Plan:

Pursuant to the SOW and based upon our compliance review, we identify multiple elements that are necessary for DCYF’s Language Access Plan to comply with the federal mandate to provide LEP people with “meaningful access” to DCYF’s federally subsidized programs, activities, and services. In addition, as multiple DCYF employees informed us, a Language Access Plan will bring needed compliance, consistency, authoritative information, guidance, and uniformity to how DCYF provides federally mandated language services.

Essentially, the Plan will eliminate much of the “confusion and uncertainty” that DCYF staff spoke about in our various meetings that provide a salient part of this report.

DOJ Title VI Guidance encourages recipients to develop and maintain a periodically-updated written plan on language assistance for LEP persons as an appropriate and cost-effective “means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance.” Such written plans can provide additional benefits to recipients’ managers in training, administrating, planning, and budgeting. The Guidance further notes that these benefits should lead most recipients to document in a written Language Assistance Plan their language assistance services, and how staff and LEP persons can access those services. Federal courts have held that such Language Access Plans are required by federal law when a federal financial assistance recipient’s programs, services, and activities are as important and essential as DCYF’s are.

The recommended Plan elements include but are not limited to:

- Assessment: Needs and Capacity
- Oral Language Assistance Services
- Written Translations
- Policies and Procedures
- Notification of the Availability of Language Assistance at No Cost
- Effective Staff Training
- Assessment: Access and Language Quality
- Stakeholder Consultation
- Digital Information

Appendix B: Contractor Guidelines and Recommendations

The following report was produced for the Department of Children, Youth, and Families by a consultant as part of the work to complete requirements from the legislature to create a Language Access Plan. DCYF considers this document to be but one element in a comprehensive Language Access Plan. Other critical elements include the Compliance Review and the Stakeholder Engagement Report. DCYF also recognizes that a Language Access Plan should be a living document. The following represents a snapshot in time set of recommendations that the agency will continue to update and adapt as it works with clients, stakeholders, and communities to implement the best services possible for people with Limited English Proficiency.

Washington State Department of Children, Youth, and Families (DCYF) Language Access Plan Recommendations

Prepared by:

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June 1, 2022

This Language Access Plan (The Plan or LAP) was prepared by the Plan contractor, Bruce Adelson, Esq., CEO of Federal Compliance Consulting LLC.

This Plan contains recommendations, best practices, action steps, timelines, deadlines, and legal requirements concerning language access. In preparing this Plan, the consultant relied upon his experience and expertise and upon material requested from DCYF.

The consultant makes no representations and has no opinions about the accuracy of data and information provided by DCYF and the data, materials, and other information that he was not given, did not have access to, and did not review, whatever their effect, if any, could have upon his opinions, conclusions, and information contained herein. The legal information provided herein is accurate as of the date of this Plan.

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Consultant's Bio

Bruce L. Adelson, Esq., CEO of Federal Compliance Consulting LLC is nationally recognized for his expertise. Mr. Adelson is a former U.S Department of Justice/Civil Rights Division Senior Trial Attorney. He teaches implicit bias, organizational culture, civil rights, and cultural awareness as a faculty member at Georgetown University School of Medicine. He has also taught at Harvard University, Cornell University, Auburn University, The Johns Hopkins University School of Public Health, and University of Baltimore School of Law.

Bruce is the ADA Consultant to the Idaho Supreme Court and the New Mexico Administrative Office of the Courts. Bruce is the testifying or consulting expert in several federal and state lawsuits alleging civil rights discrimination, including Title VI of the 1964 Civil Rights Act and the ADA. Mr. Adelson has never lost an ADA or Title VI lawsuit: i.e., *Juech v. Children's Hospital & Health Systems*, 353 F.Supp.3d 773 (E.D. Wis. 2018).

During his federal service, Bruce shared responsibility for enacting federal policy. He approved for Federal Register publication the U.S. Department of Transportation's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons (DOT LEP Guidance, Federal Register December 14, 2005) and implemented several Election Information Programs in spoken languages other than English throughout the United States.

DCYF Language Access Plan

Section I - Introduction, Legal Standards, Statement of Purpose, Implementation, and Population Data

Section II – Title VI or Language Access Coordinator

Section III - Assessing Need and The Four-Factor Analysis

Section IV - Oral Language Services

Section V - Written Translations

Section VI - Working with a Language Services Company: Recommendations & Best Practices

Section VII - Policies and Procedures

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Section VIII - Notification of the Availability of Free Language Assistance

Section IX - Staff Training

Section X: Stakeholder Consultation and Outreach

Resources

Section I: Introduction, Legal Standards, Statement of Purpose, Population Data and Implementation:

According to the Robert Wood Johnson Foundation:

“The face of the U.S. has changed and in all likelihood your population base has also changed too.

In 1950, there were nine white people under age 40 for every person of color. By 2000, the ratio was 1.5 white people for each person of color (United States Census Bureau, 2000).

Moreover, the U.S. Census Bureau calculates that by 2042, U.S. residents who identify themselves as Hispanic, black, Asian, American Indian, Native Hawaiian and Pacific Islander will together outnumber non-Hispanic whites (Bernstein & Edwards, 2008).

The United States today has broader language diversity than the whole of Europe. Fifty-two million Americans speak a language other than English at home, and 23 million (12.5% of the total population) report having limited English proficiency (LEP) (United States Census Bureau, 2005). These changing demographics reflect the broader economic and political changes occurring worldwide. Specifically, the declines of Communism, open borders and open trade have all led to large-scale immigration and migration in most developed countries.

The effects of these global changes are impacting local communities. Health care organizations need to keep pace with local demographic changes in order to develop the necessary competencies to provide high-quality care for patients with ever greater cultural and language diversity. In this step we suggest five action steps that you can undertake to learn more about the language communities you serve and to identify the dangers inherent in not responding to the language needs of these communities.”

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It is the policy of DCYF that all DCYF staff, employees, and contractors, shall take all reasonable steps to provide limited English proficient (LEP) people with meaningful access to all DCYF programs, services, or activities that receive federal financial assistance and to all programs, services, or activities conducted by sub-recipients that receive funding from DCYF.

A sample policy language access statement, according to DOJ is:

“It is the policy of this agency to provide timely meaningful access for LEP persons to all agency programs and activities. All personnel shall provide free language assistance services to LEP individuals whom they encounter or whenever an LEP person requests language assistance services. All personnel will inform members of the public that language assistance services are available free of charge to LEP persons and that the agency will provide these services to them.

Any organization serving individuals with limited English proficiency should develop a language access plan, more specifically:

- Organizations that receive federal funds, such as certain hospitals, health plans, community-based organizations, and others
- Organizations accredited by entities such as the Joint Commission or the National Committee for Quality Assurance.”

DCYF is committed to compliance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., federal agency guidance, U.S. Supreme Court and other federal court decisions, and Title VI implementing regulations, which provide that no person shall be subject to discrimination on the basis of race, color, spoken language, or national origin under any DCYF program, service, or activity that receives federal financial assistance. DCYF is committed to compliance with the Title VI guidance of the U.S. Department of Justice (DOJ) and the U.S. Department of Health and Human Services (HHS) the primary federal funder of DCYF.

On August 11, 2000, President Clinton signed Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency.” The Executive Order requires federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them. It is expected that federal agency plans will provide for such meaningful access consistent with the fundamental mission of the agency. The Executive Order also requires that federal agencies work to ensure that recipients of federal financial assistance, such as DCYF, provide meaningful access to their LEP applicants and beneficiaries.

To assist Federal agencies in carrying out these responsibilities, the U.S. Department of Justice issued a Policy Guidance Document, "Enforcement of Title VI of the Civil Rights Act of

1964 - National Origin Discrimination Against Persons With Limited English Proficiency" (LEP Guidance). This LEP Guidance sets forth the compliance standards that recipients of Federal financial assistance must follow to ensure that their programs and activities normally provided in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of Title VI's prohibition against national origin discrimination.

Title VI of the Civil Rights Act of 1964 Title VI and its implementing regulations obligate recipients of federal financial assistance to ensure nondiscrimination in federally-assisted emergency preparedness, response, mitigation, and recovery programs and activities. All recipients must comply with Title VI, as well as other antidiscrimination laws, at all times including during emergencies.²

Title VI provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Title VI’s implementing regulations explain that recipients of federal financial assistance:

...[m]ay not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.³

Title VI’s plain text and agency regulations clarify that discrimination based on race, color, or national origin (including limited English proficiency) is prohibited.

² Other statutes prohibiting discrimination include, but are not limited to, the Robert T. Stafford Disaster and Emergency Assistance Act (Stafford Act), 42 U.S.C. § 5121 et seq. (2013) (as amended by the Post-Katrina Emergency Management and Reform Act of 2006); the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et. seq.; the Fair Housing Act of 1968, 42 U.S.C. § 3601 et seq.; HUD’s Final Rule on Affirmatively Furthering Fair Housing, 24 C.F.R. Parts 5, 91, 92, et al., and the Age Discrimination Act, 42 U.S.C. 6101 et seq.

³ Nondiscrimination in Federally Assisted Programs – Implementation of Title VI of the Civil Rights Act of 1964 (DOJ), 28 C.F.R. § 42.104(b). See also Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964, 45 C.F.R. § 80.3; Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of the Civil Rights Act of 1964, 49 C.F.R. § 21.5; Nondiscrimination on the Basis of Race, Color, or National Origin in Programs or Activities Receiving Federal Financial Assistance from the Department of Homeland Security, 6 C.F.R. § 21.5; Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development – Effectuation of Title VI of the Civil Rights Act of 1964, 24 C.F.R. § 1.4.

Recipients of federal financial assistance are similarly prohibited from implementing facially-neutral policies and practices that have a disproportionate impact on protected groups. Additionally, Title VI requires recipients to ensure that LEP persons have meaningful access to programs, activities, benefits, services, and vital information through their languages. To avoid violations of federal law, recipients must ensure that their actions do not exclude individuals because of their race, color, or national origin, including limited English proficiency. The prohibition against discrimination on the basis of race, color, and national origin can never be waived or suspended by federal, state, and local governments. ⁴

Recipients of federal financial assistance engaged in emergency management activities, as well as recipients that provide emergency-related services, such as health providers and law enforcement agencies, must comply with Title VI at all times. In fact, complying with these requirements becomes even more important during emergencies and disasters, including national health emergencies, to ensure that no one is unjustly denied the services and support they need during times of crisis, when their physical safety or well-being are often at greatest risk, and when many of the resources they might otherwise have drawn upon for support may not be available. Proper planning to comply with Title VI requirements avoids complications imposed by the exigencies of emergencies and disasters. ⁵

This Plan is intended to be the overall language access policy, management, and compliance document for DCYF. Each DCYF internal office and department may adapt this Plan to fit their individual circumstances and specific language access needs of the office's service community. Therefore, DCYF's Language Access Plan is a roadmap for policy and procedures development; ensuring quality control of language assistance services (oral and written); providing notice of language assistance services; providing staff training; and conducting ongoing monitoring and evaluation.

This Plan is based on the principle that it is the legal responsibility of DCYF and not the LEP person to take reasonable steps to ensure that communications between the DCYF and the LEP person are not impaired, reduced, and/or hindered as a result of the limited English proficiency of the individual. Title VI and its implementing regulations require that recipients take reasonable steps to ensure meaningful access to the information, programs, and services

⁴ Guidance to State and Local Governments and Other Federally Assisted Recipients Engaged in Emergency Preparedness, Response, Mitigation, and Recovery Activities on Compliance with Title VI of the Civil Rights Act of 1964

⁵ See Section 1557 of the Patient Protection and Affordable Care Act, 42 U.S.C. § 18116 (2010), which prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs and activities; U.S. Department of Health and Human Services, Nondiscrimination in Health Programs and Activities, 81 Fed. Reg. 31376 (May 18, 2016), 45 C.F.R. Part 92 (to be codified at 45 C.F.R. Part 92).

they provide. Recipients of federal assistance, such as DCYF, have considerable flexibility in determining precisely how to fulfill this obligation.

The term “Language Access Plan” commonly refers to spoken languages, pursuant to federal law, U.S. Department of Justice (DOJ) pronouncements, and federal court decisions, such as *T.R. v. School District of Philadelphia*, Case 2:15-cv-04782-MSG, (E.D. Pa., 2016).

Title VI applies to all recipients of federal funds or federal financial assistance, such as states, counties, municipalities, hospitals, and many other organizations. Title VI only applies to them during the time that they receive federal financial assistance. After this time period expires and the assistance ends, so too does the prospective application of Title VI conclude.

Federal financial assistance for purposes of Title VI includes more than cash or direct grants. Such assistance also includes:

- Use or rent of federal land or property at below market rates;
- Medicare and Medicaid reimbursement;
- Federal training;
- Loan of federal employees;
- CHIP, Medicaid, and Medicare (Parts A, C, and D) recipients.
- Human or social services agencies
- Health Insurance carriers participating in marketplace exchanges.
- and
- Other arrangements that have the intention of providing financial assistance.

For Title VI purposes, federal financial assistance does not include, for example, insurance contracts, tax credits, licenses (such as pilots’ licenses and licenses to operate radio or television stations), and programs regulated by the federal government (such as the air traffic control system).

Section 601 of Title VI states that no person shall:

on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

This section prohibits intentional discrimination by recipients of federal financial assistance.

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Section 602 authorizes and directs federal agencies that are empowered to extend federal financial assistance to any program or activity “to effectuate the provisions of [Section 601]... by issuing rules, regulations, or orders of general applicability.”ⁱ The U.S. Department of Justice's Title VI regulations promulgated pursuant to Section 602 forbid federal aid recipients from discriminatory conduct that disproportionately impacts individuals because of their race, color, or national origin.⁶

This Plan establishes guidelines in accordance with Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 65 Fed. Reg. 50,121 (Aug. 16, 2000). These guidelines are designed to be consistent with the standards set forth in the Justice Department’s initial LEP Guidance, Enforcement of Title VI of the Civil Rights Act of 1964— National Origin Discrimination Against Persons With Limited English Proficiency, 65 Fed. Reg. 50,123 (Aug. 16, 2000), the Justice Department’s later LEP Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (June 18, 2002).

Individuals claiming that DCYF has violated Title VI can also file an administrative complaint with HHS or with DOJ, the federal agency empowered by federal law to interpret and enforce Title VI. See e.g.: Executive Order No. 12250, Leadership and Coordination of Nondiscrimination Laws, 45 Fed. Reg. 72,995 (November 2, 1980). Acting within its discretion, the federal government can investigate the Title VI complaint and sanction recipients if found to be in violation.

The U.S. Supreme Court has held that under Title VI, federal aid recipients must provide non-English spoken language assistance to limited English proficient (“LEP”) individuals who utilize the recipients’ federally subsidized services. In *Lau v. Nichols*,⁷ the Supreme Court interpreted Title VI implementing regulations promulgated by the U.S. Department of Health, Education, and Welfare (now the Department of Health and Human Services).

In *Lau*, the Court required a San Francisco school district with a significant number of non-English speaking students of Chinese origin to take reasonable steps to provide them with a meaningful opportunity to participate in federally funded educational programs. *Lau* conflated Title VI’s national origin discrimination prong with non-English language-based discrimination. Thus, the failure of federally assisted programs to provide LEP individuals with

⁶ 42 U.S.C. §2000d-1

⁷ 414 U.S. 563 (1974)

“meaningful access” to these programs in their relevant non-English spoken languages can constitute national origin discrimination in violation of Title VI.

Since *Lau*, many federal courts have addressed the Title VI language assistance mandate. The language assistance obligations of the statute are well-settled law. For example:

“... longstanding case law, federal regulations and agency interpretation of those regulations hold language-based discrimination constitutes a form of national origin discrimination under Title VI.” *United States of America v. Maricopa County, Arizona*, (915 F. Supp. 2d 1073, 1079-80 (D. Ariz. 2012))

“Longstanding Justice Department regulations also expressly require communication between funding recipients and program beneficiaries in languages other than English to ensure Title VI compliance.” *Nat’l Multi Housing Council v. Jackson*, 539 F. Supp. 2d 425, 430 (D.D.C. 2008)

“I conclude that the Supreme Court’s pronouncement in *Lau* instructs that language-based discrimination can constitute an actionable form of national origin discrimination.” *T.R. v. School District of Philadelphia*, (E.D. Pa., 2016)

And see: *Jones v. Gusman*, 296 F.R.D. 416, 454 (E.D. La., 2013)

Developing language access directives, implementation plans, and procedures:

DCYF adopts the following in furtherance of this Plan’s implementation and Title VI compliance.

1. Language Access Implementation Plan - The Plan is a management document that outlines how the agency defines tasks, sets deadlines and priorities, assigns responsibility, and allocates the resources necessary to come into or maintain compliance with language access requirements. It describes how the agency will meet the service delivery standards delineated in the policy directives, including the manner by which it will address language service and resources identified by DCYF in its ongoing data compilation, analysis, and language assistance efficacy assessments.

The Plan is a roadmap that helps DCYF: navigate the process of setting deadlines and priorities, and identifying responsible personnel for policy and procedures development; hire, contract, assess, and ensure quality control of language assistance services (oral and written);

provide notice of language assistance services; provide staff training; and conduct ongoing monitoring and evaluation.⁸

2. Language Access Policy Directives - Policy directives set forth standards, operating principles, and guidelines that govern the delivery of language appropriate services. Policy directives may come in different forms but are designed to require DCYF and its staff to ensure meaningful access. Policy directives will be made publicly available.

3. Language Access Implementation Policies - These are management documents that outline how the DCYF defines tasks, sets deadlines and priorities, assigns responsibility, and allocates the resources necessary to come into or maintain compliance with language access requirements. The policies describe how DCYF will meet the service delivery standards delineated in the policy directives, including the manner by which DCYF shall address the language service and resource needs of the DCYF and its LEP client community.

4. Language Access Procedures - Procedures are the “how to” for staff. They specify for staff the steps to follow to provide language services, gather data, access DCYF’s language services providers, and deliver services to LEP individuals. Procedures can be set forth in handbooks, intranet sites, desk references, reminders at counters, notations on telephone references, and through similar references and methods.

Population Data

Data are an essential part of effective and compliant language assistance. The data below, although not current as of the date of this LAP, provide a starting point to inform further, more extensive data collection and analysis by DCYF.

Data that are most needed going forward are: the new (released March 15, 2022) American Community Survey data concerning limited English proficiency; more current data on the state’s LEP population; and data about how often DCYF encounters specific non-English languages, daily, weekly, and monthly by individual DCYF internal office to inform in a much more targeted, effective way how to provide meaningful access to people speaking these languages through translated materials, outreach, and resource allocation for the assignment and hiring of qualified interpreters, translators, and bilingual staff.

Population data are important and provide a useful snapshot of where LEP people live in Washington. However, the most crucial piece of Title VI information is that among these LEP

⁸ See Exec. Order No. 13166, 65 Fed Reg. 50,121 (Aug. 11, 2000) and Attorney General Holder Memorandum to All Federal Agencies Regarding the Federal Government’s Renewed Commitment to Language Access Obligations Under Executive Order 13166 (February 17, 2011)

people, who uses or is likely to use DCYF programs, services, and activities. That data are essential for providing effective language assistance and for Title VI compliance.

In Washington, more than 1.4 million people, or 20% of the state’s total population, speak a language other than English (2020 Census). Data described below come from the 2020 Census unless otherwise described. The most widely spoken language in Washington other than English is Spanish. More than 602,000 people or 8.5% of the state’s total population speak Spanish. See:

https://data.census.gov/cedsci/table?q=United%20States&t=Language%20Spoken%20at%20Home&g=0100000US_0400000US53

In Washington, 110,665 households are limited English proficient (LEP). Limited English proficiency is defined by the Census Bureau as being able to read and write in English less than very well or not at all. Of these households, Asian and Pacific Island languages are spoken in 21.8%, representing the largest percentage of LEP households in the state. Spanish is spoken in 18.2% of LEP households while Indo-European languages are spoken in 12.4%.

According to data provided by DCYF, LEP clients constitute 1.7% of the clients encountered by DCYF while 4.72% of all DCYF cases involve LEP people.

All LEP Clients in comparison to All Clients:

LEP Clients	ALL Clients	Percent
6,439	367,907	1.75
LEP Cases	ALL Cases	Percent
3,394	71,863	4.72

All LEP Cases in comparison to All Cases

According to DCYF:

“The tables help to demonstrate the number of clients served through Department of Children, Youth, and Families, within the Child Welfare section, between the dates of 07/01/2018 and 08/31/2019. This could include services through Child Protection Services (CPS), Family Reconciliation Services (FRS), or Child and Family Welfare Services (CFWS). This is looking at any client that were documented as Limited English Proficiency (LEP) by the worker. When looking at counts that are by family, the count of LEP clients has been unduplicated to demonstrate case number.”

DCYF LANGUAGE ACCESS PLAN

Between the dates of 07/01/2018 and 08/31/2019, DCYF encountered the following non-English languages, with Spanish being the most frequently encountered by far, according to DCYF, followed by the additional languages listed below:

Language	Count of Clients		
		Pashto	*
Spanish	5813	Thai	*
American Sign Language	149	Serbo-Croatian	*
Russian	116	Hindi	*
Vietnamese	116	Oromo	*
Other Language	97	Mar[s]hallese (sic)	*
Somali	91	Bengali	*
Cambodian	79	Persian	*
Marshallese	79	Salish	*
Arabic	57	French-Creole	*
Burmese	46	German	*
Swahili	45	Turkish	*
Tigrigna	31	Portuguese	*
Farsi	24	Albanian	*
Unknown	22	Haitian-Creole	*
Mandarin (Chinese dialect)	21	Bulgarian	*
Tagalog	20	Toishanese (Chinese Dialect)	*
Ukrainian	19	Ibo	*
Korean	18	Bikol	*
Amharic	18	Ilocano	*
Chinese (General)	17	Urdu	*
Punjabi	16	American Indian (General)	*
Laotian	15	Mien	*
Romanian	15	Estonian	*
French	14	Shona	*
Samoan	14	Polish	*
Dari	13	Gujarati	*
Sudanese	*	Tongan	*
Cantonese (Chinese dialect)	*	Norwegian	*
Hmong	*	Fijian	*
Japanese	*	Malay (Malaysian)	*
Trukese	*	Grand Total	7098

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DCYF LANGUAGE ACCESS PLAN

The following county-by-county comparison reveals the counties with the largest numbers of LEP families encountered by DCYF as of August 30, 2019. The table below reveals that Benton, King, and Yakima Counties have the largest numbers of LEP families encountered by DCYF, indicating that until the data are updated, those counties are the likeliest places for DCYF to devote significant resources to provide “meaningful access” to DCYF’s LEP client communities.

COUNTY	Unduplicated Families by County with LEP Identified from 07/01/2018-08/30/2019	Number of all Screened In Intakes by County (07/01/2018-08/31/2019)	Number of children in Out of Home Care on 08/31/2019 by county
Adams	*	144	*
Asotin	*	273	39
Benton	372	1519	164
Chelan	128	452	143
Clallam	*	583	123
Clark	104	3347	463
Columbia	*	29	*
Cowlitz	36	1362	243
Douglas	*	323	*
Ferry	*	55	*
Franklin	*	627	*
Garfield	*	23	*
Grant	189	1001	227
Grays Harbor	53	781	243
Island	*	529	38
Jefferson	*	150	23
King	817	9587	1771
Kitsap	22	1509	316
Kittitas	14	244	49
Klickitat	*	213	35
Lewis	19	824	142
Lincoln	*	97	*
Mason	29	530	125
Okanogan	25	332	62
Pacific	*	202	44
Pend Oreille	*	142	30
Pierce	244	7077	1130
San Juan	*	142	13
Skagit	87	1162	127
Skamania	*	74	13
Snohomish	282	5710	713
Spokane	140	5431	861

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Stevens	*	400	74
Thurston	73	2092	342
Wahkiakum	*	36	*
Walla Walla	34	453	108
Whatcom	67	1866	195
Whitman	*	219	39
Yakima	634	2613	298
Unknown/Out of State	*	351	456
Grand Total	3412	52504	8681

Below are maps with LEP population data throughout the state from the Washington Office of Financial Management (OFM). Data are from 2019 or 2020, as indicated.

They reveal the state’s counties with the highest LEP populations. While such data are salient, they must be correlated with the specific LEP populations and the languages spoken as encountered by DCYF. The counties with the highest LEP populations are: King; Chelan; Douglas; Grant; Adams; Franklin; Walla Walla; and Yakima. Counties with the highest percentages of Spanish speakers largely coincide with the counties that have the highest LEP populations. Two other charts below reveal the counties with the largest number of Asian and Pacific Islander and Indo-European language speakers.

<https://ofm.wa.gov/washington-data-research/statewide-data/washington-trends/social-economic-conditions/language-spoken-home/languages-spoken-home-mapped-county>

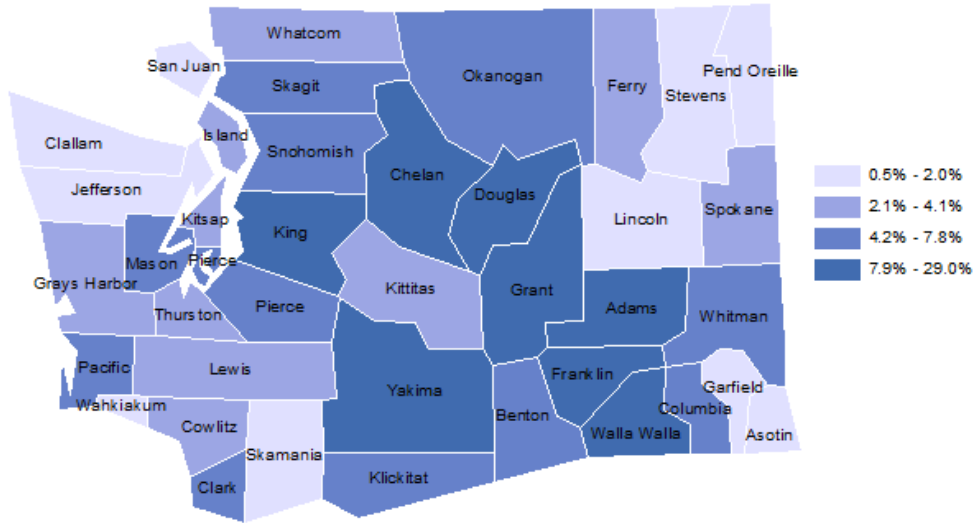
Comparing OFM’s maps to DCYF regions, DCYF Regions 1,2,4, and 5 appear to include most of the Washington counties with the highest LEP populations. However, LEP populations are also in counties located in all DCYF regions. Thus, the need for greater data detailing how often specific languages are encountered by DCYF is manifest and will more broadly inform the allocation of language resources. Until such data are compiled and analyzed, the comparison of DCYF data available as of June 1, 2022 and the OFM maps to determine where and how to allocate language resources and which languages to focus on is the most effective starting point for DCYF Title VI language compliance.

See: <https://www.dcyf.wa.gov/sites/default/files/pdf/DCYFMap-offices.pdf>

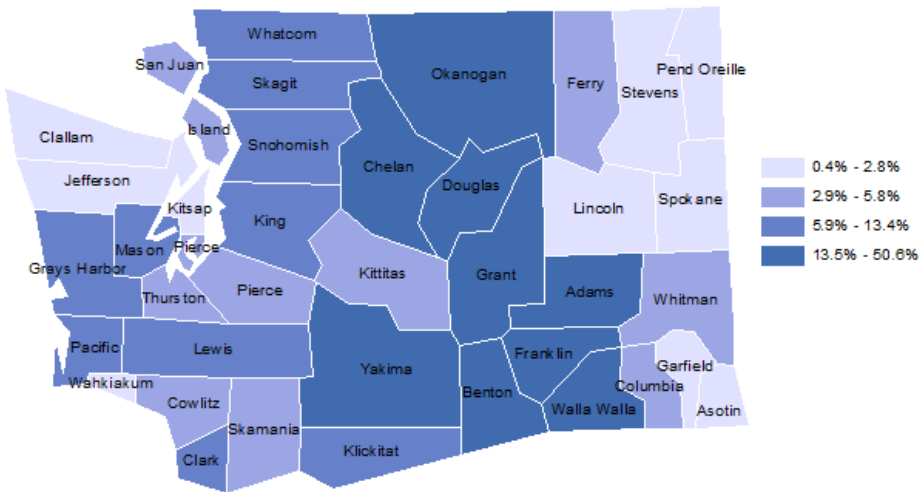
Percent in households where English is spoken less than “very well,” Population Age 5 and Above, 2019:

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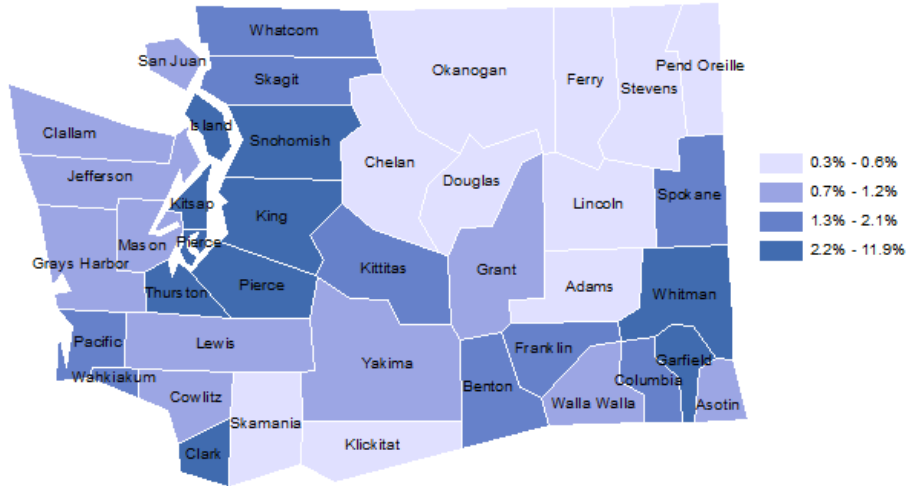
Section 1.02 Percent in households where Spanish is spoken, Population Age 5 and Above, 2019



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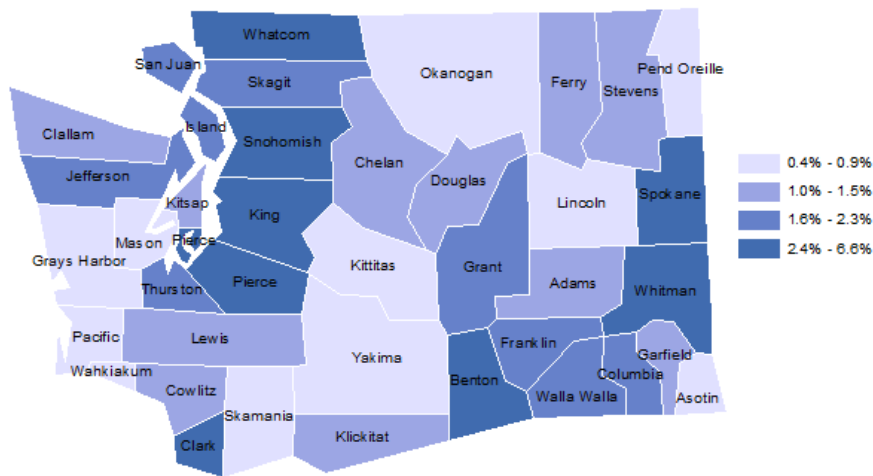
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Section 1.03 Percent in households where Asian or Pacific Island language is spoken, Population Age 5 and Above, 2019



According to OFM, in King County 11.9% of persons lived in households where an Asian or Pacific Island language was spoken. In Chelan, Okanogan and Pend Oreille County only 0.3% of persons were in this category.

Section 1.04 Percent in households where Indo-European language other than Spanish is spoken, Population Age 5 and Above, 2019



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Section II Language Access Coordinator:

A Language Access or Title VI Coordinator is highly recommended to implement and monitor its language access services and Title VI compliance. DCYF shall determine who in the organization will lead language assistance and over-all Title VI compliance efforts and appoint a coordinator. Coordinators should also be appointed in each DCYF internal department, agency, or office, especially those that interact with the public.

According to DCYF, the following is a list of all DCYF internal offices, departments, and agencies that interact with the public and/or have Title VI language obligations, such as Human Resources being responsible for DCYF bilingual staff language proficiency obligations:

- Government Affairs & Community Engagement
- Juvenile Rehabilitation
- Administrative Services
- Licensing
- Human Resources
- Early Learning
- Child Welfare
- Prevention & Client Services
- Tribal Relations

The coordinator may be a single person or committee who oversee the language access plan. The coordinator may also be the same person(s) who is the Section 504 Coordinator responsible for disability access and compliance with the Americans with Disabilities Act and Rehabilitation Act of 1973.

Coordinators shall respond to questions about the Plan's content, help ensure that it is implemented, and monitor its performance. This coordinator will need the training, resources, and leadership buy-in to accomplish the necessary tasks associated with the language access plan and DCYF's Title VI obligations.

Coordinators have been routinely required by federal agencies in enforcement actions, federal guidance, and ordered by various federal court decisions. See i.e.: "The language access [Title VI] coordinator should be or report to a high-ranking official within the agency since high level support is essential to successful implementation. The coordinator is responsible for language assistance services and may delegate duties but should retain responsibility for oversight, performance, and implementation of the language access plan. Agencies with multiple offices and divisions may find that each component or field office should designate an

individual as a local language access coordinator. The language access plan should set forth the name and contact information of the responsible official(s).” DOJ, May 2011. ⁹

Coordinators are further regarded by DOJ and HHS as a best practice for Title VI compliance and the effective provision of language services. One of the coordinator’s most important responsibilities is to monitor agency compliance **by ensuring staff cooperation and accountability.**

For example:

“These individuals are responsible for devising and ensuring that the agency adheres to its language access policy directives, plan and procedures to provide meaningful access to LEP persons... The coordinator is responsible for language assistance services and may delegate duties but should retain responsibility for oversight, performance, and implementation of the language access plan.

Agencies with multiple offices and divisions may find that each component or field office should designate an individual as a local language access coordinator. The language access plan should set forth the name and contact information of the responsible official(s). The language access coordinator should consider creating a working group of key stakeholders to assist in creating and implementing language access procedures for the agency. The language access coordinator may also oversee personnel and performance of employee and non-employee interpreters and translators, including:

- Identifying qualified interpreters and translators to be included in an interpreter database;
- Creating interpreter, translator, and bilingual staff qualifications and ethical standards;
- Outlining measures to ensure quality control of interpreters and translators;
- Training and testing bilingual individuals including staff who provide language assistance services;
- Assigning qualified interpreters, translators and bilingual employees to perform language assistance functions;

⁹ And See: U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE FOR CIVIL RIGHTS and MEE MEMORIAL HOSPITAL Transaction Numbers: 12-143846, 13-151016 & 13-153378, 2014

- Maintaining a regularly updated list of all competent bilingual employees, contract interpreters, and contract translators that includes their availability, non-English language(s) spoken, and contact information;
- Changing hiring and personnel practices to increase staff language capacity (e.g., providing pay incentives for bilingual employees);
- Developing a procurement strategy for contract language assistance services providers;
- Searching for funding and other resources to support interpretation and translation; technological and other infrastructural support, and staffing;
- Providing input in budgetary and procurement matters related to implementation of the language access policy, plan, and procedures;
- Coordinating procurement for interpreter and translator compensation for services rendered.”

The Coordinator shall further be responsible for Title VI staff training, Title VI grievance and complaint procedures, DCYF policies and procedures necessary for implementation of the Plan, over-all Title VI compliance, and for working and coordinating with the Title VI coordinators or responsible employees in each DCYF internal office, department, or agency.

There are various job descriptions for language access coordinators, but responsibilities generally also include:

- Training staff on how to utilize language assistance services when serving customers;
- Coordinating and managing requests for interpretation and translation;
- Managing a budget to provide language assistance services; and
- Regularly assessing and improving the language assistance program, **which should be updated each year** to account for any demographic and spoken language changes in DCYF’s service communities.

The yearly LAP assessment and evaluation are intended to determine whether DCYF’s LAP and language program are meeting the needs of DCYF’s LEP constituents. Yearly assessment and evaluation shall evaluate any changes in the:

- 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.

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- 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.

LEP Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (DOJ, June 18, 2002).

DCYF’s Title VI/Language Access Coordinator: Name and contact information:

DCYF internal offices, departments, agencies’ Coordinators and contact information

Government Affairs & Community Engagement
Juvenile Rehabilitation
Administrative Services
Licensing
Human Resources
Early Learning
Child Welfare
Prevention & Client Services
Tribal Relations

Section III: Assessing Need and The Four-Factor Analysis:

To understand and address the language access needs of DCYF customers, clients and communities, DCYF shall regularly be prepared with answers to the following key questions:

1. Does your organization interact directly with LEP individuals?
2. If so, in what capacity? In person? Online? By phone?
3. What are the most common languages spoken by limited English proficient (LEP) individuals in your community?

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The importance of improving DCYF’s language needs assessment cannot be minimized. Federal agencies, including DOJ and HHS, consider an effective, accurate needs assessment to be one of the most vital aspects of an LAP. Simply put, if DCYF cannot accurately account for the language access needs of its constituents, its language access program cannot meet the “meaningful access” requirement of Title VI.

To achieve an EFFECTIVE NEEDS ASSESSMENT, the following federal agency recommendations and best practices shall be implemented:

- Survey client constituencies and chart their needs by tracking LEP encounters, conducting focus groups with client constituencies/stakeholders, and obtaining customer feedback via surveys or other methods and use the information obtained from client constituencies to target language access efforts to priority services and locations.

Each DCYF internal office and program interacts with LEP individuals in many ways. Any DCYF engagement with the public has the potential to interact with LEP individuals. These could include, but are not limited to: program applicants and participants; hotline or information line calls; outreach programs; public reading and similar programs; public meetings and hearings; public access to DCYF websites; written materials or complaints sent to DCYF; and DCYF brochures intended for public distribution. It is important for DCYF to also analyze the manner in which DCYF interacts with the public and LEP individuals (e.g.: in-person consultations versus correspondence). The type and frequency of interactions can dictate the type of language assistance services provided by each DCYF department or agency such as translated materials or in-person interpreters.

As a compliance requirement and a **best practice**, DCYF should implement identifying and tracking the primary language of LEP individuals that seek and receive programs and services. This can be accomplished by determining the points of contact between agency staff and LEP individuals. Agencies may create mandatory data fields for LEP, languages spoken and the preferred language for written communication to ensure that all staff collect and input this information. By regularly collecting (daily, weekly, monthly, yearly) and updating this data, DCYF internal public interacting agencies, departments, and offices will be able to accurately identify and efficiently address the changing needs of their LEP communities.

IDENTIFYING LEP PERSONS AND THEIR LANGUAGE (Insert name of your facility) will promptly identify the language and communication needs of the LEP person. If necessary, staff will use a language identification card (or “I speak cards”) or posters to determine the language spoken. In addition, when records are kept of past interactions with clients or family members, the language used to communicate with the LEP person will be included as part of the record.”

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HHS, 2013: Example of a Policy and Procedure for Providing Meaningful Communication with Persons with Limited English Proficiency POLICY AND PROCEDURES FOR COMMUNICATION WITH PERSONS WITH LIMITED ENGLISH PROFICIENCY

DCYF assesses the level of language assistance services DCYF should and is legally required to provide by conducting an individualized assessment for each DCYF internal office and the programs, services, and activities that each provides using the **four-factor analysis**.

The **four-factor analysis** is a tool to help organizations and governments determine the extent to which LEP people come into contact with DCYF programs, services, or activities and the best, most effective and compliant methods to provide language assistance services needed to ensure their meaningful access.

This four-factor analysis necessarily implicates the “mix” of services required for effective communication. The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. Even DCYF internal entities that serve few LEP persons on an infrequent basis must use a balancing analysis to determine whether the importance of the service(s) provided and minimal costs involved requires what type of language assistance measures (such as translated materials, computer available for online language assistance) to use even in the case of infrequent interactions with LEP persons.

Every day, organizations and local governments encounter customers, patients, clients, and litigants who are limited English proficient, who speak and read little or no English. Being able to communicate with LEP people and providing them with effective language assistance are absolutely essential, and are required by law. Understanding how to provide federally required language assistance, in what languages, and to which communities can be a daunting task. It is axiomatic that the “languages spoken by ... LEP individuals with whom the [DCYF] has contact determine the languages accommodated by [the] agency.” This starting point is a good place to begin evaluating language assistance needs.

Organizations need a formula or rubric to help them determine the how, when, where, and to whom of federally required language assistance. The Four-Factor Analysis, developed by DOJ (See: U.S. Department of Justice Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2002, 67 Federal Register 41464) is recognized by the courts and all federal agencies as the fundamental first step in determining how to comply with Title VI’s language assistance mandates and provide LEP people with “meaningful access” to federally funded programs.

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The analysis is also a key box to check by federal regulators when conducting Title VI investigations, compliance reviews, or evaluations of an organization’s language assistance compliance. For example, as the U.S. Department of Health & Human Services has stated: “[Federal funding] recipients may want to consider documenting their application of the four-factor test to the services they provide.” As an essential tool, the Four-Factor Analysis is typically mandated by federal agencies in their consent agreements and enforcement actions for organizations to use in assessing the “... language needs of the population to be served.”

According to DOJ, The Four-Factor Analysis is designed to be a “...flexible and fact-dependent standard” and “the starting point” for language assistance compliance.” LEP Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (June 18, 2002).

The four factors are:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the grantee;
2. The frequency with which LEP individuals come into contact with the program;
3. The nature and importance of the program, activity or service provided by the program to people’s lives; and
4. The resources available to the grantee/recipient and costs.

Under federal law, a federal agency’s interpretation of its own regulation is legally “controlling.” *Auer v. Robbins*, 519 U.S. 452, 461 (1997). Title VI interpretations, including the Four-Factor Analysis must be given special attention by organizations receiving federal funds. See Executive Order No. 12250, 45 Fed. Reg. 72,995 (Nov. 2 1980), *Consolidated Rail Corporation v. Darrone*, 465 U.S. 624, 634 (1984), and *Andrus v. Sierra Club*, 442 U.S. 347, 357-58 (1979).

To begin, let’s examine each of the four factors and how to approach using them properly.

The **first factor** pinpoints the Title VI language access starting point – “The population eligible to be served by race, color, and national origin.” See: U.S. Department of Justice Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2002, 67 Federal Register 41464

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This factor must be applied to each language group in DCYF’s service community. To apply the first factor correctly, DCYF shall determine those LEP people who actually interact with the organization and those LEP people DCYF departments and agencies are “likely” to encounter (DOJ Title VI Regulations, 28 C.F.R. § 42.101 et seq). The “likely to encounter” requirement can be challenging. Answering this question and analyzing the relevant data involves organizations knowing their communities – knowing their “likely” customers and how to provide them access to their federally funded services.

This analysis includes persons in a geographic service area with whom DCYF comes into contact while carrying out DCYF functions. For the language needs assessment to be accurate the analysis must also include all communities that are eligible for services or are likely directly affected by DCYF programs, services, or activities. DCYF shall determine the linguistic characteristics of an LEP population in a service area by reviewing available data from federal, state, and local government agencies, community, and faith-based organizations.

The **second factor** calls for information about how often LEP people use particular federally subsidized programs and services. Analysis of this factor will involve data from the entire DCYF and each individual branch, department, and agency within DCYF about frequency of use.

Determining such frequency shall be done through staff-conducted surveys of customers. The level of necessary language services is related to the frequency LEP people interact with DCYF. More frequent contact, such as daily or several times per week, indicate a greater level of language services is needed, such as greater use of in-person, telephonic and/or video interpretation and potentially increased translations.

The **third factor** involves objectively determining how important the federally subsidized program, activity, or service is to people in the community. One way to evaluate this factor is provided by DOJ: “A recipient needs to determine whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual.” See: U.S. Department of Justice Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2002, 67 Federal Register 41464

In short, the more important and crucial the service, the higher the level of language services needed to comply with Title VI. For example, public education, family services, public transportation, health care, law enforcement, and access to the courts are considered to be among the most important of federally subsidized services. Consequently, they require the highest level of language access services and resources, such as in-person qualified interpreters.

The **fourth factor** concerns an organization’s resources and the cost of language services. This factor examines the size of the federally subsidized organization and its overall budget. In essence, the larger the organization, such as a statewide agency, the more it will be expected to do to provide language access compared to smaller entities, such as a small local government clinic in a rural town with a population of 5,000 people and an LEP population of under two percent, for example.

“Smaller recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets. ... Larger recipients should ensure that their resource limitations are well-substantiated before using this factor as a reason to limit language assistance.” U.S. Department of Justice Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2002, 67 Federal Register 41464

The fact that language services and language assistance cost money and resources is no excuse for not providing them. Once DCYF or any organization accepts federal financial assistance, the law requires that organization to comply with Title VI’s language assistance mandates.

As DOJ has explained:

“[F]iscal pressures are not a blanket exemption from civil rights requirements, and our investigation has determined that financial constraints do not preclude [an organization] from taking further reasonable steps to comply with its federal non-discrimination obligations, for several reasons. [L]anguage services must be considered part of the cost of doing business.” (DOJ Letter of Findings to State of North Carolina, 2012)

Identifying LEP Individuals:

DCYF staff shall, at the point of first contact with an LEP individual, make reasonable efforts to conduct or arrange for an initial assessment of the need for language assistance services. Each DCYF internal entity should make reasonable efforts to obtain such services if they are needed to effectively communicate with the individual. DCYF staff shall be trained about how to identify LEP individuals in a non-discriminatory manner.

The following is an HHS-endorsed example of a policy for identifying LEP people and the languages they speak:

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“IDENTIFYING LEP PERSONS AND THEIR LANGUAGE (Insert name of your facility) will promptly identify the language and communication needs of the LEP person. If necessary, staff will use a language identification card (or “I speak cards”) or posters to determine the language. In addition, when records are kept of past interactions with clients or family members, the language used to communicate with the LEP person will be included as part of the record.”

HHS, 2013: Example of a Policy and Procedure for Providing Meaningful Communication with Persons with Limited English Proficiency POLICY AND PROCEDURES FOR COMMUNICATION WITH PERSONS WITH LIMITED ENGLISH PROFICIENCY

DCYF staff can determine whether a person needs language assistance in several ways:

- Self-identification by the non-English speaker, LEP individual or companion;
- Inquiring as to the primary language of the individual if they have self-identified as needing language assistance services;
- Asking a qualified bilingual or multilingual staff member or qualified interpreter to verify an individual’s primary language;
- Using an “I Speak” language identification card or poster (an example of such a card from the U.S. Census Bureau is available at: <http://www.justice.gov/crt/lep/resources/ISpeakCards2004.pdf>).

DCYF staff **shall avoid assumptions** about an individual's primary language, based upon, for example, a person’s name, accent, race, color, or national origin. Some countries have multiple distinct languages, which are often misperceived as different dialects with only a slight variance. For example, LEP persons from Latin American countries may speak an indigenous or non-Spanish language as their primary language. Staff shall make all reasonable efforts pursuant to applicable law to ascertain an individual's primary language to ensure effective communication without making language and language proficiency assumptions based on race, color, or national origin.

When DCYF personnel have a non-discriminatory reason to believe that an individual is LEP, DCYF shall respond to that LEP individual in a language he or she understands. For example, a letter sent to a specific LEP person should be translated into the appropriate language for that individual to ensure effective communication. DCYF shall put processes in place for handling written communication with LEP individuals in less frequently encountered languages.

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The DCYF shall implement the following additional Best Practices Action Steps in order to assess language need accurately and compliantly. These Action Steps are nationally recognized best practices for state agencies and all federal financial assistance recipients.

- a. Designate an office or official, such as the Title VI or Language Coordinator responsible for conducting annual language need assessments.
- b. Identify and track the primary language of LEP individuals who seek and receive DCYF programs, services, and activities. This can be accomplished by determining the points of contact between DCYF staff and LEP individuals. DCYF departments and agencies shall create mandatory computer/online storage data fields for languages spoken by LEP customers and customers' preferred language for written communication and ensure that all staff collect and input this information. Each DCYF internal office, department, and agency shall compile data concerning the languages encountered by DCYF on daily, weekly, monthly, and yearly bases to identify accurately and efficiently address the changing needs of their LEP communities.
- c. **Annually** consult experts, advocacy organizations, LEP individuals, and applicable research to determine effective practices for assessing and implementing language assistance needs of current and projected customers with respect to all public interface mechanisms, including but not limited to: marketing and outreach; technical assistance; face-to-face and over-the-phone customer service; clearinghouses; ombudsman activities; websites; and multilingual surveys and other customer assessment instruments.
- d. Consult with internal and external experts to identify existing DCYF language access capabilities to provide language assistance services, such as bilingual and multilingual staff qualified to serve as interpreters and the availability of contract interpreter and translation services.
- e. Identify gaps where language assistance services are inadequate to meet needs and identify and take specific steps at all locations to enhance language assistance services.
- f. Use data resources, such as U.S. Census data (Decennial Census and American Community Survey) and program-specific data to evaluate the extent of need for language assistance services in particular languages or dialects at the national and regional level. DCYF recognizes that DCYF program level data are the best source of information regarding DCYF's interactions with LEP people and their language needs.
- g. Modify existing satisfaction and related surveys of customers, and other means of obtaining feedback on services delivered to include collection of language data, English proficiency, and immigration trends as appropriate.

- h. Include language need assessments in DCYF internal department or agency-specific language access plans, including LEP data from customer satisfaction surveys and program reviews.
- i. Research new procedures and practices proven to enhance the provision of more efficient language assistance services and share such practices throughout all DCYF departments and agencies.

Section IV: Oral Language Services:

DCYF shall provide oral language assistance (such as qualified interpreters or staff whose proficiency in non-English languages has been assessed and documented), in both face-to-face, video, and telephone encounters, that addresses the meaningful access mandate of Title VI. DCYF shall avoid using family members, children, friends, and untrained volunteers as interpreters because it is very difficult to ensure that they interpret accurately and that they have no ethical conflicts.

Each DCYF internal office, department, or agency shall establish a point of contact, in consultation and with the approval of the DCYF’s Title VI/Language Access Coordinator, and include the name of the DCYF contact employee, phone number, and email address.

Sample HHS interpreter policy:

OBTAINING A QUALIFIED INTEPRETER

“(Identify responsible staff person(s), and phone number(s)) is/are responsible for:

(a) Maintaining an accurate and current list showing the name, language, phone number and hours of availability of bilingual staff (provide the list);

(b) Contacting the appropriate bilingual staff member to interpret, in the event that an interpreter is needed, if a qualified employee who speaks the needed language is available and is qualified to interpret;

(c) Obtaining an outside interpreter if a bilingual staff or staff interpreter is not available or does not speak the needed language.

(Identify the agency(s) name(s) with whom you have contracted or made arrangements) have/has agreed to provide qualified interpreter services.

The agency’s (or agencies’) telephone number(s) is/are (insert number (s)), and the hours of availability are (insert hours).

Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual and after the LEP person has understood their federal right to free, qualified, professional language services in the LEP person's language and an offer of a qualified interpreter at no charge to the person has been made by the facility.

Such an offer and the response will be documented in the person's file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered and explained to the LEP person in that person's language. If the family member or friend is not competent or appropriate for any of these reasons, competent interpreter services will be provided to the LEP person. If the LEP person declines the use of a DCYF interpreter, DCYF shall nevertheless arrange for an interpreter to interpret for staff and alert staff to any linguistic mistakes by the ad hoc interpreter. DCYF's Title VI obligation remains in place even if an LEP person chooses to use their own interpreter.

Children will not be used to interpret, in order to ensure confidentiality of information and accurate communication."

HHS, 2013: Example of a Policy and Procedure for Providing Meaningful Communication with Persons with Limited English Proficiency POLICY AND PROCEDURES FOR COMMUNICATION WITH PERSONS WITH LIMITED ENGLISH PROFICIENCY

DCYF staff whose primary job responsibility is not interpretation or translation and who have been appropriately assessed for language proficiency typically should not be used as interpreters. Interpreters have special skills, specialized language knowledge, and distinct ethical responsibilities. For example, the interpreter is ethically compelled to convey everything that was said without additions, deletions or changes to the meaning, according to interpreter ethical codes. Bilingual staff who are not trained, qualified professional linguists typically do not have the necessary skills, such as knowledge of interpreter ethics and code of conduct, to act as formal interpreters.

According to HHS: "the fact that an individual has above average familiarity with speaking or understanding a language other than English does not suffice to make that individual a qualified interpreter for an individual with limited English proficiency" See: *Fed Register* 2016;81(96):31375-31473. <https://www.gpo.gov/fdsys/pkg/FR-2016-05-18/pdf/2016-11458.pdf>.

Anyone communicating in non-English languages with LEP people must be competent to do so and have knowledge in English and the relevant non-English language of the relevant terms or concepts particular to the program or activity and the dialect and terminology used by the LEP individual. Depending upon the circumstances, interpreters may provide simultaneous interpretation of proceedings so that an LEP person understands what is happening in that proceeding, or may interpret an interview or conversation with an LEP person in the consecutive mode. Interpreter competency requires more than self-identification as bilingual, such as knowledge of job specific specialized terminology, interpreter ethics, and code of conduct.

Language proficiency assessments for DCYF staff must include testing their knowledge of “specialized terminology.” HHS has stated that such language proficiency assessments are mandatory for HHS federal financial recipients such as DCYF. These assessments must fit DCYF’s circumstances and needs for the entire department and each internal office, depending upon the language needs of the LEP people with whom they interact or are likely to encounter. Data compilation of LEP contacts daily, weekly, and monthly with DCYF offices that interact with the public is a sound best practice and an ideal place to begin assessing the LEP communities served by DCYF.

DOJ has been clear that such required assessments must include testing of relevant job specific terminology: **Personnel who provide language assistance must “...have knowledge ... of any specialized terms or concepts peculiar to the entity’s program or activity and of any particularized vocabulary and phraseology used by the LEP person.”**

Concerning such particularized vocabulary used by LEP people:

“Many languages have “regionalisms,” or differences in usage. For instance, a word that may be understood to mean something in Spanish for someone from Cuba may not be so understood by someone from Mexico. In addition, because there may be languages which do not have an appropriate direct interpretation of some [specialized] terms ..., the interpreter should be so aware and be able to provide the most appropriate interpretation. The interpreter should likely make the recipient aware of the issue and the interpreter and recipient can then work to develop a consistent and appropriate set of descriptions of these terms in that language that can be used again, when appropriate.”

Justice Department’s LEP Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (June 18, 2002).

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Determining language fluency for Title VI language assistance is achieved through an assessment and evaluation process. As USHHS has stated, its federal financial assistance recipients must: “Devise criteria for assessing bilingual staff to determine ability to provide services in languages other than English and to provide competent interpreter services.” However, while there is no federally required standard for assessing language skills, such as certification, the assessment itself is required, and must test overall language fluency and fluency in “specialized terms or concepts peculiar to the entity’s program or activity.”

According to DCYF data current as of the date of this LAP, DCYF employs 141 dual/multilingual staff, 135 of whom speak Spanish, one of whom speaks Hmong, Thai, and Cambodian, one of whom speaks Cambodian, two of whom speak Somali, one of whom speaks Mandarin and Cantonese, and one of whom speaks Tagalog. As discussed above, before these employees can employ their languages to communicate with LEP people, their knowledge of DCYF specific and job specific terminology must also be determined.

The 141 bilingual or multi-lingual staff employed by DCYF can be a good resource for compiling the relevant “specialized terms or concepts peculiar to the entity’s program or activity” that should be included in compliant language proficiency assessment and evaluation. Connecting with minority language communities to discuss such “specialized terms or concepts peculiar to the entity’s program or activity” is a best practice for producing compliant language assessments while also informing DCYF’s LEP community about DCYF services, programs, and activities.

Through outreach, data analysis, and LEP contact data, DCYF shall determine how the languages spoken by DCYF staff can assist with required language access and whether DCYF should recruit and/or train additional bilingual and multilingual staff.

DCYF may decide to hire bilingual staff who have dual responsibilities as both professional staff in a specific DCYF office and as interpreter. However, such dual responsibility staff raises concerns about efficiency and overall federal compliance. Dual role staff must be bilingual and have time and flexibility to serve as interpreters as needed. Dual role staff training and demand for their language services could interfere with the staff members’ ability to do the non-interpreter part of their job.

DOJ recommends a policy directive on bilingual staff emphasizing “that second language skills are a desired characteristic, prescribe the hiring process for bilingual staff, provide the mechanism for designating jobs as bilingual, when and how to test the competency of prospective or current bilingual staff, define which staff are “bilingual,” and/or additional remuneration for bilingual staff.” DOJ, 2011

Bilingual staff may be tremendously useful by providing monolingual communications in languages other than English. Such communication does not involve interpretation or the translation between two or more languages.

Monolingual communicating bilingual staff can work well with DCYF to enable successful outreach to LEP communities and DCYF responses to email and telephone contacts in languages other than English. Such bilingual staff members who communicate “in-language” to LEP individuals, or who serve as interpreters or translators, must be assessed and receive regular, **at least yearly** training plus ongoing continuing professional education on proper interpreting and translation techniques, ethics, specialized terminology, and other topics as needed. “Without periodic assessment and training, bilingual staff may not be able to provide the language assistance services necessary to ensure LEP individuals have meaningful access to your agency’s programs.” DOJ, 2011

DCYF shall standardize the use of bilingual staff throughout the department to achieve a genuine multi-lingual workforce. Such standardization shall include clear, agreed upon by leadership and staff, policies, rules, and procedures for the use of bilingual staff, especially dual role bilingual staff who have professional DCYF job responsibilities in addition to language assistance.

As stated previously, dual role or responsibility staff raises concerns about efficiency and overall federal compliance. Dual role staff must be bilingual and have time and flexibility to serve as interpreters as needed. Dual role staff training and demand for their language services could interfere with the staff members’ ability to do the non-interpreter part of their job.

Indeed, “effective management strategies, including any appropriate adjustments in assignments and protocols for using bilingual staff” are essential here. They can ensure that “bilingual staff are fully and appropriately utilized. When bilingual staff cannot meet all of the language service obligations of the recipient,” (HHS, 2003) DCYF must turn to other options such as outside language services vendors.

Caution, DCYF-wide discussion and buy-in by staff, management, and leadership, and prudence shall inform DCYF’s consideration of the use of bilingual staff to provide federally required language assistance. Such consideration is best done on a case-by-case basis. As HHS advised in 2003 Title VI Guidance:

“If bilingual staff are also used to interpret between English speakers and LEP persons, or to orally interpret written documents from English into another language, they should be competent in the skill of interpreting. In addition, there may be times when the role of the bilingual employee may conflict with the role of an interpreter.

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Effective management strategies, including any appropriate adjustments in assignments and protocols for using bilingual staff, can ensure that bilingual staff are fully and appropriately utilized. When bilingual staff cannot meet all of the language service obligations of the recipient, the recipient should turn to other options.”

According to DOJ:

“People who are completely bilingual are fluent in two languages. They are able to conduct the business of the workplace in either of those languages. Bilingual staff can assist in meeting the Title VI and Executive Order 13166 requirement for federally conducted and federally assisted programs and activities to ensure meaningful access to LEP persons. **One of the primary ways that bilingual staff can be used as part of a broader effort to ensure meaningful access is to have them conduct business with the agencies’ LEP clients directly in the clients’ primary language.**

For instance, 911 call centers and a variety of hotlines frequently employ bilingual operators who can communicate directly with LEP callers in a particular language. Social service workers, police, corrections, and probation officers, and others frequently are also called upon to communicate directly with the public in languages other than English. This is sometimes called “monolingual communication in a language other than English.” It does not involve interpretation or the translation between languages.

However, it [monolingual communication in a language other than English] does require fluency in the non-English language, including fluency in agency terminology. Such fluency should be assessed prior to relying on the bilingual employee for the provision of services.

Many individuals have some proficiency in more than one language, but are not completely bilingual. They may be able to greet a limited English proficient individual in his or her language, but not conduct agency business, for instance, in that language.

The distinction is critical in order to ensure meaningful communication and appropriate allocation of resources. As valuable as bilingualism and ability to conduct monolingual communication in a language other than English can be, interpretation and translation require additional specific skills in addition to being fully fluent in two or more languages. Emphasis added

From the standpoint of the user [LEP person], a successful interpretation is one that faithfully and accurately conveys the meaning of the source language orally, reflecting the style, register, and cultural context of the source message, without omissions, additions or embellishments on the part of the interpreter.”

Professional interpreters and translators are subject to specific codes of conduct and should be well-trained in interpreter skills, ethics, and subject-matter language. Those utilizing the services of interpreters and translators should request information about assessments taken, certifications, if applicable, qualifications, experience, and training. Quality of interpretation should be a focus of concern for all federal financial assistance recipients, such as DCYF.

“Many [agencies] have adopted assessments, certification or other qualification procedures to ensure quality, so when hiring an interpreter, such competency measures should be taken into consideration. Interpreters can be physically present, or, if appropriate, may appear via videoconferencing or telephonically. When videoconferencing or telephonic interpretation are used, options include connecting directly to a specific professional interpreter with known qualifications, or opting to use a company providing telephonic interpretation services, preferably one with quality control safeguards in place.

In many circumstances, using a professional interpreter or translator will be both necessary and preferred. However, if bilingual staff are asked to interpret or translate, they should be qualified to do so. **Assessment of ability, training on interpreter ethics and standards, and clear policies that delineate appropriate use of bilingual staff, staff or contract interpreters and translators, will help ensure quality and effective use of resources.”** See: DOJ Guidance (PDF) 67 FR 41455, 41461 - 41464 (June 18, 2002)

Interpretation, as DOJ explains:

“Oral language assistance service may come in the form of “in-language” communication (a demonstrably qualified bilingual staff member communicating directly in an LEP person’s language) or interpreting. An interpreter renders a message spoken in one language into one or more other languages. Interpretation can take place in-person, through a telephonic interpreter, or via internet or video interpreting. An interpreter must be competent and have knowledge in both languages of the relevant terms or concepts particular to the program or activity and the dialect and terminology used by the LEP individual.

Depending upon the circumstances, interpreters may provide simultaneous interpretation of proceedings so that an LEP person understands what is happening in that proceeding, or may interpret an interview or conversation with an LEP person in the consecutive mode. Interpreter competency requires more than self-identification as bilingual.

Agencies should avoid using family members, children, friends, and untrained volunteers as interpreters because it is difficult to ensure that they interpret accurately and lack ethical conflicts.”

Best practice: DCYF must assess and know its language needs before beginning any LEP interactions and have the necessary services available before beginning any DCYF program, service, or activity.

BEFORE YOU HIRE – ASK YOURSELF:

“WHAT ARE MY PROJECT’S LANGUAGE NEEDS?”

INTERPRETATION (ORAL)

THE PROJECT WILL REQUIRE SOMEONE WHO CAN: • Listen to a communication in one language and orally convert it to another language (either simultaneously or consecutively) while retaining the meaning • Orally communicate in the target language and can convey the meaning of that conversation in English (direct “in-language” communication) • Listen to English language media and convert audio into spoken target language • Listen to target language media and convert audio into spoken English

INTERPRETATION ASSESSMENT AND CERTIFICATION BODIES: • Federal Language Assessments Using the ILR Scale (such as the Defense Language Proficiency Test, Foreign Service Institute Test, or the FBI Language Proficiency Test) • The Federal Court Interpreter Program (FCIP) Certification • The American Council for the Teaching of Foreign Languages (ACTFL) and the National Association of Judiciary Interpreters and Translators (NAJIT) have certification programs •

(a) From DOJ’s “Translation and Interpretation Procurement “Series

DCYF shall implement the following additional Action Steps to assess language need accurately and compliantly. These Action Steps are nationwide best practices for all federal financial assistance recipients.

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Best Practice Action Steps:

- a. Designate an office or official responsible for developing a program that ensures LEP people participating in or attempting to participate in DCYF programs, services, or activities are provided qualified and compliant oral language assistance services pursuant to federal law and this Plan.
- b. Provide points of contact, email addresses, and phone numbers to ensure LEP individuals can communicate with DCYF staff, directors, and managers who have been trained to communicate with them effectively to provide meaningful access to DCYF programs, services, and activities through the use of a qualified, compliant interpreter at no cost to LEP people.
- c. Devise criteria for assessing the language abilities of bilingual staff to determine ability to provide services in languages other than English, to comply with this Plan and federal law, and to provide the required language services.
- d. Maintain a list of fully assessed and qualified bilingual and multi-lingual staff capable of providing competent, compliant language services in languages other than English.
- e. Establish a list of all contacts and other resources available to DCYF staff with these contacts qualified by law to provide direct (in-person), telephonic, or video language assistance to LEP individuals.
- f. Share oral language resources across DCYF internal offices, departments, and agencies to develop economies of scale and efficiency and to provide the required meaningful access to DCYF programs, services, and activities.
- g. Require that all DCYF internal offices, agencies, and departments share best practices to enhance oral language assistance and implement as appropriate DCYF programs, services, and activities.
- h. Consult with outside experts who can provide technical assistance to DCYF to ensure staff awareness about the obligation to take reasonable steps to provide meaningful access and share language assistance resources and effective practices.
- i. Identify employment or contractor positions appropriate for making bilingual skills a selection criterion for employment, include such criterion in position descriptions and job announcements, and determine applicants' language skills through appropriate skills assessment before making hiring decisions.

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Section V: Written Translations:

As DOJ explains:

“Translation is the replacement of written text from one language into another. When agency personnel have reason to believe that an individual is LEP, the agency must respond to that LEP individual in a language he or she understands. For example, a letter sent to a specific LEP person should be translated into the appropriate language for that individual to ensure effective communication.

Agencies should also put processes in place for handling written communication with LEP individuals in less frequently encountered languages. qualified and trained.”

DCYF shall provide written translations to LEP people to ensure them “meaningful access” and an equal opportunity to participate fully in the services, activities, programs or other benefits provided by DCYF. Each DCYF internal office, department, and agency shall determine what constitutes **vital documents** for their operations, such as program applications, notices, and benefits information and shall implement appropriate and compliant translation policies, procedures, and staff training consistent with this Plan and federal law.

The first step in providing Title VI compliant translations is to determine the **vital documents** of DCYF and its internal entities. There may be some variation in documents used by LEP people per each DCYF internal office. DCYF shall determine which documents are most frequently requested, in what languages, and compile a list of **vital documents**. This list shall be monitored monthly by each internal office’s Title VI/Language coordinator and DCYF’s primary coordinator for any potential changes to what DCYF identifies as the department’s **vital documents**.

DCYF shall identify, translate and make accessible in various accessible formats, including print and electronic media, **vital documents** in languages other than English in accordance with DCYF assessments of language need and the Four-Factor Analysis as previously discussed. In its vital documents compilation, DCYF shall assess whether there are any time-sensitive requirements for services or for the preservation of the rights of LEP people, such as for any applications for services or discrimination complaint determinations deadlines or other delivery date essentials that require TIME IS OF THE ESSENCE (TOE) turn-around time for translations. If such TOE imperatives exist, DCYF shall inform its translation vendors to ensure prompt, on-time translation delivery.

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According to DOJ:

“A document will be considered vital and need to be translated if it contains information critical for obtaining access to [programs, services and activities] or it is required by law. Some examples of vital documents that local governments should translate to ensure that LEP individuals are provided meaningful access can include applications, forms, consent or complaint forms, notices of rights, and letters or notices that require a response such as any reduction, denial, or termination of services or benefits.

In addition, vital documents include but are not limited to: critical records and notices as part of emergency preparedness and risk communications; online and paper applications; consent forms; complaint forms; letters or notices pertaining to eligibility for benefits; written tests that evaluate competency for a particular license, job, or skill for which knowing English is not required; documents that must be provided by law; and notices regarding the availability of language assistance services for LEP people at no cost to them.

All vital documents, regardless of language, should be easy to understand by target audiences. Matters of plain language, cultural appropriateness, and literacy should be considered for all documents, including vital documents before and after the translation process.

Vital documents must be translated when a significant number or percentage of the population eligible to be served, or likely to be directly affected by the program/activity, needs services or information in a language other than English to communicate effectively.

For many larger documents, translation of vital information contained within the document will suffice and the documents need not be translated in their entirety. It may sometimes be difficult to draw a distinction between vital and non-vital documents, particularly when considering outreach or other documents designed to raise awareness of rights or services.

Though meaningful access to a program requires an awareness of the program's existence, we recognize that it would be impossible, from a practical and cost-based perspective, to translate every piece of outreach material into every language.

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Title VI does not require this of recipients of federal financial assistance, and EO 13166 does not require it of federal agencies. Nevertheless, because in some circumstances lack of awareness of the existence of a particular program may effectively deny LEP individuals' meaningful access, it is important for agencies to continually survey/assess the needs of eligible service populations in order to determine whether certain critical outreach materials should be translated into other languages." See: DOJ Guidance 67 FR 41455, 41461 - 41464 (June 18, 2002)

Sample HHS translation policy:

PROVIDING WRITTEN TRANSLATIONS (a) When translation of vital documents is needed, each unit in (insert name of your facility) will submit documents for translation into frequently-encountered languages to (identify responsible staff person). Original documents being submitted for translation will be in final, approved form with updated and accurate legal and medical information.

(b) Facilities will provide translation of other written materials, if needed, as well as written notice of the availability of translation, free of charge, for LEP individuals.

(c) (Insert name of your facility) will set benchmarks for translation of vital documents into additional languages over time

HHS, 2013: Example of a Policy and Procedure for Providing Meaningful Communication with Persons with Limited English Proficiency POLICY AND PROCEDURES FOR COMMUNICATION WITH PERSONS WITH LIMITED ENGLISH PROFICIENCY

Best Practice Action Steps:

a. Designate an office or official responsible for developing a program that ensures individuals participating or attempting to participate in DCYF programs, services, or activities are provided written language assistance services in accordance with each DCYF branch, department, or agency's applicable language assistance needs, as established through surveys and data accumulation as described previously, and this Plan.

b. Identify materials already available in non-English languages, make such resources known among all DCYF branches, departments, agencies, and programs as appropriate, consider offering materials in audio formats, and revising as needed to ensure quality and plain language, and **ensure ALL translations are accurate and are provided timely**. DCYF shall ensure that there are no translation delivery effective disparities (translation for one language having a demonstrably longer turn-around time than translations for another language) based on language or national origin.

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- c. Provide points of contact and phone numbers to ensure DCYF staff and managers can arrange for document translation when necessary to improve and ensure meaningful access to DCYF programs, services, and activities.
- d. Identify vital documents and budget resources for translating such documents in accordance with the DCYF’s translation program, based on the assessed language need. Identify documents used in areas where individual DCYF programs, services, or activities regularly, on a daily, weekly, monthly basis encounter languages other than English in serving customers and take immediate, necessary steps to provide translation in the relevant non-English languages.
- e. Use the services of ONLY qualified, professional human translators.

Online translations shall not be used unless the translated material is reviewed for accuracy by a DCYF qualified human translator prior to the online translation being released to the public or the translated material is simple and basic, such as a greeting.

According to DOJ:

“Utilization of such [online] services is appropriate only if the translated document accurately conveys the meaning of the source document, including accurately translating technical vocabulary. [DOJ] caution[s] that the use of web-based automated translations, and translations that are inaccurate are inconsistent with the obligation to communicate effectively with LEP [people] [and may constitute national origin discrimination.]

Thus, to ensure that essential information has been accurately translated and conveys the meaning of the source document, the [DCYF] shall have any machine translation reviewed, and edited as needed, by an individual qualified to do so.” And See: United States v. Cruz-Zamora, Case Number 5:17-cr-40100, (D. Kan., 2018).

BEFORE YOU HIRE

ASK YOURSELF: “WHAT ARE MY PROJECT’S LANGUAGE NEEDS?” Translation

THE PROJECT WILL REQUIRE SOMEONE WHO CAN: • Convert written English language text into written target language • Convert written target language text into written English • Listen to the target language media and convert audio into written English text (transcription) • Listen to the English language media and convert audio into written target language (transcription) • Review target language text and orally translate meaning into spoken English (sight translation)

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KEY TRANSLATION ASSESSMENT AND CERTIFICATION BODIES: • Federal Language Assessments Using the ILR Scale (such as the Defense Language Proficiency Test, Foreign Service Institute Test, or the FBI Language Proficiency Test) • The American Translation Association (ATA), the American Council for the Teaching of Foreign Languages (ACTFL), and the National Association of Judiciary Interpreters and Translators (NAJIT) all have certification programs • Select state court programs (The Language Access Services Section (LASS) of the National Center for State Courts (NCSC) has drafted the testing materials used by many states) provide certifications • Select university/college programs certify and/or assess language skill.

From DOJ’s “**Translation and Interpretation Procurement “Series**”

The following is an example of how a local/state government entity’s translation of its Title VI notice, “Discrimination is against the law,” can go wrong because its language services vendor was not sufficiently qualified or reliable in language assistance services. Even such a seemingly simple translation can be done incorrectly and inform greater pattern and practice concerns with language access compliance. Following DOJ’s Tips can help DCYF avoid similar problematic situations.

“The English to Spanish translation of the text “Discrimination is against the law” contains many errors.

Some of the common errors identified in the translation concern Spanish language usage at a basic literacy level. Further issues include mistranslations and omissions of elements of a sentence and/or entire sentences, grammatical errors, formatting and design of the text (this varies from issues with the overall structure to structural issues regarding underlining, capitalization, as well as the order and sequences of lists, and the enlarging of information, which can be confusing for the reader).”

Section VI:

Working with a Language Services Company - Recommendations & Best Practices:

As provided by DCYF, below is a list of current DCYF language services vendors, current as of June 1, 2022.

1. Three on-demand (24/7) over the phone interpreter vendors:

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911 Interpreters

Contact:

Linguistica International

Contact:

Language Link

Contact:

- a. In-person, over the phone and virtual interpreters (utilizing DCYF’s own platforms, e.g., Zoom and own phone/conference numbers) for pre-scheduled appointments:

DCYF utilizes an interpreter contract held by WA State’s Health Care Authority (HCA) with Universal Language Services, information specific to this contract can be found on Universal’s website here. Information about HCA’s contract can be found here. If you scroll down on this same webpage, you can see a copy of the contract, a data dashboard, and a copy of the collective bargaining agreement (CBA) that covers interpreters that DCYF, HCA and the Department of Social and Health Services (DSHS) use. DCYF must use interpreters covered by the CBA whenever possible for pre-scheduled interpreter appointments. In order to be on this contract interpreters must be certified/authorized by the WA State Department of Social and Health Services Language, Testing and Certification (LTC) office which offers a social service and medical interpreter test. National and court interpreter certifications can also be used to obtain LTC certification/authorization.

If the HCA interpreter contract cannot supply an interpreter, we can use the WA Department of Enterprise Services (DES) interpreter contract. We try to use Category three which requires that interpreters be certified/authorized by DSHS LTC. Additional details on this contract can be found by scrolling down to the middle of the webpage and looking at specific contract documents (see image below).

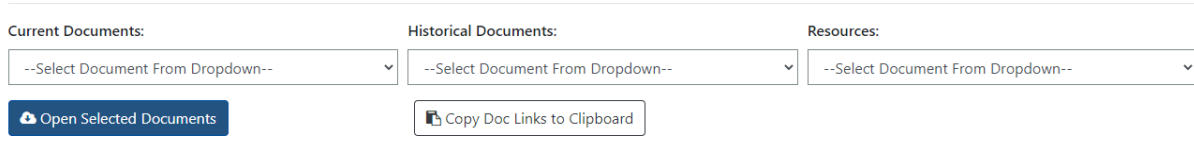
Current Documents:	Historical Documents:	Resources:
--Select Document From Dropdown--	--Select Document From Dropdown--	--Select Document From Dropdown--
Open Selected Documents	Copy Doc Links to Clipboard	

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2. Translation vendors

DCYF utilizes the WA State DES [translation contract](#), which has numerous translations vendors on it and six categories of work. DCYF primarily uses three translation vendors, [Dynamic Language](#), [Prisma](#), and [Lingualinx](#). Additional details on this contract can be found by scrolling down to the middle of the webpage and looking at specific contract documents (see image below).



BEWARE – LANGUAGE SERVICE DECISIONS TO AVOID:

- Hiring linguists without verifying their language qualifications
- Hiring linguists who have not had their skills independently assessed by a qualified assessment or certification body (e.g., the linguist is certified in court interpretation by the Federal Court Interpreter Program, or achieved equivalent recognition from a qualified assessment or certification body)
- Hiring a vendor or linguist without establishing a quality control plan and remedies for low quality language service
- Hiring a vendor without inquiring about the formal qualifications or certifications of its linguists
- Hiring linguists without verifying that they can meet your specific language and/or vocabulary needs (e.g., hiring a certified medical interpreter to interpret legal arguments in court)
- Hiring translators to interpret, unless they are qualified to do both • Hiring interpreters to translate, unless they are qualified to do both
- Using self-identified multilingual staff, who are not otherwise certified or assessed in the target language, to assess the linguistic skill of a professional translator or interpreter

(b) From DOJ’s “Translation and Interpretation Procurement “Series

Best practices when working with a language services company:

Just like interpreters and translators, language companies are not all the same and will produce different results. Here are some best practices for selecting language companies as a vendor.

- Do extensive due diligence before committing to a relationship or a contract. Ask about each company's available language list, turnaround time for small and larger projects, implementation processes, quality control procedures, fulfillment rate, the number and qualifications of linguists (interpreters and translators) they work with and the company's billing processes. If the vendor provides a full range of services, make sure that you ask about connection times for telephonic and video solutions.
- If doing an RFP, make sure to include front line DCYF staff who regularly work with LEP consumers. Make sure the requirements for linguists or providers included in the RFP are factual. For instance, do not ask for "all interpreters and translators to be certified," as such a request is not federally required and also cannot be satisfied because current certification exams test for few spoken languages.
- Location of your vendor is much less important than the vendor's capacities, scope of services, understanding of your needs, knowledge of local demographics, and customer service.
- It is important to work with a company that can provide a continuity of service from onsite to remote to document translation, as needed.
- DCYF should have a designated support specialist either for the entire account or per service. Typically, per service is more common.
- Make sure to have a kickoff meeting with a new language vendor and involve all interested parties. Include training on what they do and how to connect with them into your onboarding for new staff and regular refreshers. This information also should be stored and be easily accessible.
- A good language vendor will offer training proactively to ensure services are understood by all DCYF staff. Such training should be part of any language services contract.
- When submitting a project for a price quote or requesting a service, DCYF should receive a response from the vendor on the same business day with a quote or at least confirmation of receipt. Delays in responding are indicative of lackluster customer service.

- Manage expectations with your vendor: rare languages are more challenging to find locally and may have to be provided via VRI (video remote interpreting) or OPI (over the phone interpretation). Make sure all parties clearly understand all challenges and have realistic expectations.
- Have regular (monthly) reviews of DCYF vendor(s)' performance and involve front line staff in the process. Every company may have an occasional faux pas. However, if you see a pattern of concerns, make sure the vendor is aware of them. If the vendor does not fix the problem, consider finding a new vendor. Failing to provide meaningful language access or having erroneous translations on your website or in print remains your legal responsibility and could likely become problematic for DCYF.
- Review and revise DCYF vendor contracts to include provisions that vendor shall comply with all applicable federal and state laws concerning spoken language access and assistance. Vendor must certify that Vendor has all necessary equipment and materials, in full working order, including but not limited to VRI, to provide language assistance services as requested by DCYF. Vendor further certifies that Vendor shall have qualified staff available 24/7 to provide language assistance services and to provide any tech support or other assistance to DCYF to ensure compliance with federal and state language assistance laws.
- Vendor certifies that all of Vendor's interpreters and translators are fully trained, qualified, and certified, if required by DCYF and Washington law, pursuant to all applicable laws. Vendor certifies that Vendor's interpreters and translators are fully trained and up to date in interpreter ethics and codes of conduct.
- The above provisions should be material parts of the contracts. Any breach of such terms shall be material breaches of the contracts.

Section VII: Policies and Procedures

DCYF and each DCYF internal office shall develop, implement, and regularly update written policies and procedures that ensure LEP individuals have meaningful access to DCYF programs, services, and activities.

DCYF shall establish and maintain the necessary infrastructure to implement and improve language assistance services within all DCYF internal branches, agencies, and departments. Such infrastructure shall include Wi-Fi bandwidth and capacity sufficient to provide functioning Video Remote Interpreting (VRI), access to language services providers,

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laptop computers or I-Pads for staff to use for VRI, sufficient translated materials, and bilingual staff qualified to provide language services consistent with this Plan.

DCYF staff shall utilize the data and assessment results described *supra* to inform the development of policies and procedures appropriate for each DCYF internal agency and department to enable them to serve LEP individuals and provide the legally required meaningful access to DCYF programs, services, and activities.

Sample HHS Language Access POLICY:

“DCYF will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities, programs and other benefits.

The policy of DCYF is to ensure meaningful communication with LEP clients and their authorized representatives involving their meaningful access to DCYF programs, services, and activities. The policy also provides for communication of information contained in vital documents, including but not limited to, waivers of rights, financial and insurance benefit forms, etc. (include those documents applicable to your facility).

All interpreters, translators and other aids needed to comply with this policy shall be provided without cost to the person being served, and clients and their families will be informed of the availability of such assistance free of charge. Language assistance will be provided through use of competent, qualified bilingual staff, interpreters, contracts or formal arrangements with local organizations providing interpretation or translation services, or technology and telephonic interpretation services.

All staff will be provided notice of this policy and procedure, and staff that may have direct contact with LEP individuals will be trained in effective communication techniques, including the effective use of an interpreter.

(Insert name of your facility) will conduct a yearly review of the language access needs of our [client] population, as well as update and monitor the implementation of this policy and these procedures, as necessary.”

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HHS, 2013: Example of a Policy and Procedure for Providing Meaningful Communication with Persons with Limited English Proficiency POLICY AND PROCEDURES FOR COMMUNICATION WITH PERSONS WITH LIMITED ENGLISH PROFICIENCY

DCYF shall develop policies and procedures specific to providing required language access services. Such policies and procedures shall address:

- How staff are to respond to telephone calls from LEP individuals.
- How staff together track, and record language preference information.
- How staff inform LEP individuals about available language assistance services.
- How staff will identify the language needs of LEP individuals.
- How staff are to respond to correspondence (letters and email) from LEP individuals.
- How staff will procure in-person interpreter services.
- How staff will access telephone or video interpreter services.
- How to use bilingual staff for LEP services and which staff are authorized to provide in-language service.

Vital documents:

- How to obtain translations of documents.
- How staff will process language access complaints.

Best practice Action Steps:

a. Designate a DCYF-wide Title VI or Language Access Coordinator and similar staff in each DCYF office, agency, and department who shall be responsible for developing and implementing written language access policies and procedures and ensuring compliance with this Plan in DCYF programs, services, and activities, including proper application of the four-factor analysis, notices of the availability of free language services, and vital documents that must be translated into appropriate languages as determined by data and DCYF encounters with LEP people, as described herein. The designated Coordinators shall regularly monitor the efficacy of services provided to DCYF residents and customers and share effective practices among all DCYF departments and agencies.

b. Develop policies and procedures for receiving and addressing language assistance concerns or complaints from LEP customers and establish policies and procedures to improve services.

c. Develop a DCYF-wide Language Assistance/Title VI Steering Committee for sharing of best practices, developing common goals and procedures, analyzing and disseminating relevant data, and responding to relevant requests for information and queries from federal agencies concerning Title VI and related language access compliance. The Title VI/Language Access Coordinators will be members of each Steering Committee.

As of June 1, 2022, DCYF convened a LAP Workgroup. DCYF shall consider using this Workgroup to coordinate with the Title VI/Language Access Coordinators to implement this LAP, develop necessary policies and procedures for LAP implementation and compliance, and provided necessary oversight and staff accountability. For further information, contact Katrina.osborn@dcyf.wa.gov

As provided by DCYF, the Workgroup is described as follows:

Workgroup Charter: Development of a Department of Children, Youth & Families (DCYF) Language Access Plan (LAP) -- Purpose & Expected Result:

Language Access is a core tenant in providing equitable and legal service delivery. The creation of the Washington State Department of Children, Youth & Families (DCYF) merged different agencies with multiple different approaches and cultures around providing language access. Achieving provisions for language access in service delivery is a legal requirement. Achieving alignment in our agency culture is also a best practice, and advances our collective work to improve, strengthen, streamline, increase ease/access for employees and customers. Requesting funding to support a unified, agency wide approach to language access will ensure we are both fulfilling our legal obligations and meeting the needs of our clients, communities and providers who are Limited English Proficient (LEP).

This workgroup is being launched in order to help:

1. Assess where we are at in regards to Languages Access (this likely differs across divisions) – this includes identifying our strengths, deficits, challenges and needs.
2. Evaluate our current language access services and contracts.
3. Identify questions we may have around language access.
4. Create a vision for what we want language access to be at DCYF (and understand our legal obligations).
5. Provide feedback on a DCYF Language Access Plan with clear steps and objectives which will be our blueprint to identify the future work that needs to be completed and the resources needed.

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Examples of questions/topics this group may discuss:

- What you need to be successful, supports and services in your programs
- Role/testing/needs regarding dual language staff.
- What guidance may be needed in our contracts?
- What are other agencies doing to effectively address language access needs?
- What are best practices regarding language access?

Section VIII:

Notification of the Availability of Free Language Assistance

All DCYF departments and agencies shall proactively inform the public, including LEP individuals, that language assistance is provided by DCYF and is available at no cost to them.

DCYF is legally responsible for taking steps to ensure meaningful access to DCYF programs, services, and activities including notifying LEP people about the availability of language assistance at no cost. Notification methods shall include but not be limited to multilingual posters, signs and brochures, translated statements on application forms and informational material distributed to the public, including electronic and digital forms and materials. Said notices shall be conspicuously posted virtually and physically on DCYF's websites, translated documents, and at the main counter of each DCYF office. The results from the analyses, surveys, and assessments described herein shall be used to inform each DCYF branch, department, and agency about the applicable languages in which the notifications and materials shall be translated.

According to DOJ:

“Federal agencies and recipients must inform LEP individuals of their eligibility for benefits, programs, and services in a language they understand. Agencies should assess all points of contact, telephone, in-person, mail, and electronic communication its staff has with the public and LEP individuals when determining the best method of providing notice of language assistance services. An agency should not only translate its outreach materials, but also explain how LEP individuals may access available language assistance services.

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Methods used to inform LEP individuals about language assistance services may include translating outreach materials into other languages, updating non-English content in key languages on the main page of the program website, and providing public service messages in non-English media describing your programs. Current applicants or beneficiaries of your programs or services should also receive notice and information about available language assistance services. This may be accomplished through the use of effective, program specific notices such as forms, brochures, language access posters placed in conspicuous locations describing in multiple languages the availability of language assistance services, the use of “I Speak” language identification cards, and by including instructions in non-English languages on telephone menus.”

Sample HHS Notice:

PROVIDING NOTICE TO LEP PERSONS

(Insert name of your facility) will inform LEP persons of the availability of language assistance, free of charge, by providing written notice in languages LEP persons will understand. At a minimum, notices and signs will be posted and provided in intake areas and other points of entry (include those areas applicable to your facility).

Notification will also be provided through: outreach documents, website, telephone voice mail menus, local newspapers, radio and television stations, and/or community-based organizations (include those areas applicable to your facility).

Best practice Action Steps:

- a. Designate a DCYF-wide Title VI or Language Access Coordinator and similar staff in each DCYF branch, agency, and department who shall be responsible for notifying LEP individuals who contact DCYF or are being contacted by the DCYF, that language assistance is available to them at no cost.
- b. Utilize various methods and networks, including public service announcements, non-English media and community-and faith-based resources, to ensure that the DCYF’s target audiences are aware that language assistance services are provided at no cost to them.

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Section IX: Staff Training

DCYF shall **yearly** commit resources and provide employee/staff/contractor training as necessary to ensure DCYF leadership, management, and staff understand and can implement this Plan, all policies and procedures developed to ensure full implementation of this Plan, and compliance with applicable law, including but not limited to Title VI.

This **yearly** commitment is consistent with the emphasis DOJ and other federal agencies place on Title VI and language access training, which shall be mandatory for all staff.

DCYF shall retain outside experts to assist with and/or provide language access training. Outside experts are more effective for training and education than in-house staff and are often taken more seriously by staff than is a fellow employee.

According to DOJ:

“Staff will not be able to provide meaningful access to LEP individuals unless staff receives effective training on language access policies and procedures, including how to access language assistance services.

This training should be mandatory for staff who have the potential to interact or communicate with LEP individuals, staff whose job it is to arrange for language assistance services, and managers. Training should explain how staff can identify the language needs of an LEP individual, access and provide the necessary language assistance services, work with interpreters, request document translations, and track the use of language assistance services.

Bilingual staff members who communicate “in-language” to LEP individuals, or who serve as interpreters or translators, should be assessed and receive regular training on proper interpreting and translation techniques, ethics, specialized terminology, and other topics as needed. Without periodic assessment and training, bilingual staff may not be able to provide the language assistance services necessary to ensure LEP individuals have meaningful access to your agency’s programs.”

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Additional recommendations for training content come from the Centers for Medicare and Medicaid Services (CMS) of HHS:

“Staff training is an important step in providing language assistance services to individuals with limited English proficiency.

Trainings should include everyone who interacts with consumers, including receptionists, security guards, medical assistants, and clinicians.

Trainings should focus on:

- Why it is important to provide language assistance services;
- How to effectively and respectfully communicate and interact with individuals with limited English proficiency;
- The organization’s policies and procedures related to providing language access services, including the availability of interpretation and translation services at no cost to the consumer;
- How staff can capture data around consumers’ language needs and preferred language;
- Procedures to request and work with an interpreter, including when to use an interpreter; and
- What type of translated information is available to consumers and where it can be found. Many organizations include training about communication and language services as part of the onboarding process for new hires. It is also important that all staff members periodically receive refresher courses as policies, processes, and resources are improved to meet evolving needs.”

From: GUIDE TO DEVELOPING A LANGUAGE ACCESS PLAN, CMS

To ensure that all DCYF employees understand the importance of this Plan and are capable of effectively providing both oral and written language assistance services in all their programs and activities to LEP individuals, DCYF shall designate all needed officers and officials necessary to establish and maintain an infrastructure to enable DCYF staff to implement and improve language assistance services within all DCYF agencies and departments.

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In addition, the DCYF-wide Title VI/Language Access Coordinator shall daily monitor the efficacy of DCYF training and share monitoring results and conclusions with all DCYF offices, departments, and agencies. All DCYF staff shall be notified that DCYF provides language assistance and shall be informed how to contact and access DCYF's contracted language access companies.

Best Practice Action Steps:

- a. Designate the DCYF-wide Title VI/Language Access Coordinator, collaborating with the similarly situated coordinators in each DCYF branch, department, and agency, to develop, implement, and commit the resources necessary, including but not limited to hiring and retaining recognized experts to assist the DCYF's training program, to train agency designated employees to implement this Plan and related required policies and procedures.
- b. Develop, make available, and disseminate training materials that will assist management and staff in procuring and providing effective communication for LEP individuals.
- c. Train DCYF leadership/management on legal requirements, the policies and procedures of this Plan, on proven language assistance practices, and in the use of resources available to DCYF staff to provide language assistance to LEP persons in a timely manner.
- d. Train DCYF staff about the requirements of Title VI and related federal laws and train DCYF staff about national origin discrimination, cultural proficiency, and implicit bias.
- e. Train appropriate staff on when and how to access and utilize oral and written language assistance services, how to work with interpreters and translators, how to convey complex information using plain language, and how to communicate effectively and respectfully with individuals with limited English proficiency.

Section X: Stakeholder Consultation and Outreach

DCYF staff shall consult with stakeholder communities to identify the language assistance needs of LEP individuals, implement culturally and linguistically appropriate language access strategies to ensure LEP people have meaningful access to DCYF programs, services, and activities in accordance with this Plan and federal law, and survey customer need as described herein and evaluate progress on an ongoing basis.

DCYF shall obtain important information and insight from stakeholder communities. This information may be critical for conducting the need assessments as described herein. Stakeholders can provide DCYF branches, departments, and agencies with qualitative and first-hand data on the needs of current and potential LEP individuals who seek or may seek access to DCYF programs, services, and activities.

The term “stakeholder” should always include beneficiaries but also be viewed more broadly to include customers, recipients of federal financial assistance, vendors, advocacy organizations, and representatives from a broad cross section of the language access community, including individuals with disabilities, etc. Also, DCYF internal branches, departments, and agencies shall use studies, reports or other relevant material produced by stakeholders to further enable and inform stakeholder input.

Stakeholder consultations can take many forms, from gathering information through town-hall style webcasts, online meetings, conference calls, letters and in person meetings with stakeholder advocacy groups to posting information on social media and to agency websites for public comment.

Collaboration and effective ongoing relationships with community-based organizations is very important and advisable for informed outreach. Such collaboration is further enabled and enhanced through DCYF’s ability to speak “in-language” with the community groups and LEP individuals who attend DCYF outreach events.

As DOJ explains:

“Community-based organizations provide important input into the language access planning process and can often assist in identifying populations for whom outreach is needed and who would benefit from the agency’s programs and activities were language services provided. Community-based organizations may also be useful in recommending which outreach materials the agency should translate. As documents are translated, community-based organizations may be able to help consider whether the documents are written at an appropriate level for the audience. Community-based organizations may also provide valuable feedback to the agency to help the agency determine whether its language assistance services are effective in overcoming language barriers for LEP persons.”

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DOJ: Common Language Access Question, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs, 2011

Best Practice Action Steps:

- a. Consult stakeholder communities to assess the accessibility, accuracy, cultural appropriateness, and overall quality of DCYF language assistance services.
- b. Share DCYF’s Language Access Plan, related policies, procedures, and resources with stakeholders and solicit stakeholder feedback in culturally and linguistically appropriate outreach. Incorporate stakeholder input into the DCYF’s Language Access Plan and relevant efforts as appropriate and consistent with this Plan.
- c. Working with community-based organizations and other stakeholders to inform LEP individuals of the agency’s services, including the availability of language assistance services and including notices in local and ethnic media, DOJ, 2011.
- d. Outreach efforts can build bridges between DCYF and immigrant and LEP communities and can ensure better understanding of rights and responsibilities, as well as safety and emergency preparedness. Thus, conduct outreach efforts in languages most frequently encountered in the population served.

Resources:

National Language Service Corps: <https://www.nlscorps.org/>

Interagency Language Roundtable: <https://www.govtilr.org/>

Five Steps to Improving Communications with LEP Populations, Hablamos Juntos, Robert Wood Johnson Foundation – 2009

Department of Justice Language Access and Title VI materials:
<https://www.justice.gov/crt/fcs/fcs-publications-major-interest#TIPS>

Using bilingual staff as interpreters

<https://www.aafp.org/fpm/2004/0700/fpm20040700p34.pdf>

Section 1.02

Section 1.03 Clinicians' Obligations to Use Qualified Medical Interpreters When Caring for Patients with Limited English Proficiency: American Medical Association Journal of Ethics, 2017

<https://journalofethics.ama-assn.org/article/clinicians-obligations-use-qualified-medical-interpreters-when-caring-patients-limited-english/2017-03>

Understanding and using the “Toolkit Guidelines for Culturally Appropriate Translation: U.S. Department of Health and Human Services Centers for Medicare & Medicaid Services

<https://www.cms.gov/Outreach-and-Education/Outreach/WrittenMaterialsToolkit/Downloads/ToolkitPart11.pdf>

National Library of Medicine - Health Information in 49 Languages:

<https://medlineplus.gov/languages/languages.html>

Disparities Impact Statement (cms.gov)

Inventory of Resources for Standardized Demographic and Language Data Collection (cms.gov)

Welcome to LEP.gov

DOJ Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons

<https://www.govinfo.gov/content/pkg/FR-2002-06-18/pdf/02-15207.pdf>

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DEPARTMENT OF HEALTH AND HUMAN SERVICES Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons <https://www.govinfo.gov/content/pkg/FR-2003-08-08/pdf/03-20179.pdf>

Asian American Justice Center

Asian and Pacific Islander Institute on Gender-Based Violence (APIIDV), Interpretation Technical Assistance & Resource Center (ITARC)

Communities Creating Healthy Environments, Language Justice Toolkit: Multilingual Strategies for Community Organizing (PDF)

Empire Justice Center, Language Access Resource Center (LARC)

Hispanic Interest Coalition Of Alabama, Alabama Language Access Project (ALAP)

Legal Services NYC, Language Access Project

Long Island Language Advocates Coalition (LILAC)

The Louisiana Language Access Coalition (LLAC)

Many Languages One Voice (MLOV), Washington D.C. Language Access Coalition

Massachusetts Language Access Coalition

Migration Policy Institute, National Center on Immigration Integration Policy, Language Portal: A Translation and Interpretation Digital Library

National Asian Pacific American Bar Association (NAPABA)

- Interpreting Justice, Progress and Challenges on Language Access, 2017
- Increasing Access to Justice for Limited English Proficient Asian Pacific Americans: Report for Action, May 2007

The National Language Access Advocates Network (N-LAAN)

Respond: Crisis Translation

San Francisco Language Access Network (Brochure)

South Carolina Appleseed Legal Justice Center (Report)

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Washington State Coalition for Language Access (WASCLA)

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