

DEPARTMENTAL POLICY

POLICY # 118	SUBJECT: Language Access Policy
EFFECTIVE DATE: November 26, 2012	Page 1 of 10
AUTHORIZED SIGNATURE:	

LANGUAGE ACCESS POLICY

I. PURPOSE

The purpose of the Department of Services for Children, Youth and Their Families (DSCYF) Language Access Policy and implementation plan is to ensure that the Department and its contracted service providers (collectively) take reasonable steps to ensure that children and families in the State of Delaware with limited proficiency in English have meaningful access to all of its benefits and services.

Consistent with the requirements of Title VI of the Civil Rights Act of 1964 and the Omnibus Crime Control and Safe Streets Act of 1968, the Language Access Policy and implementation plan demonstrates DSCYF's commitment to provide meaningful access to all individuals seeking benefits and services, including individuals with Limited English Proficiency (LEP). The Department's policy is that individuals should not face obstacles to receiving benefits or services for which they may be eligible because they do not speak, understand, read, or write English. The purpose of the policy is to ensure that persons eligible for Department benefits or services receive them and to avoid the possibility that a person who attempts to access benefits or services will face discrimination based on his or her primary language.

II. POLICY

- A. All LEP persons must have equal access to DSCYF services and benefits, regardless of whether they are delivered by the Department or contracted service providers, and shall be entitled to language assistance at no cost to themselves with respect to receiving benefits or services from the Department.
- B. Clients and their families must be informed about and provided with free interpreter services as necessary to ensure meaningful access to the Department's benefits and services. Staff must include a notification of these rights on all announcements for meetings to which clients, their parents/families or the public are invited to participate. In addition, the notice of this right is to be posted in all of DSCYF's community offices. The Language Access Policy shall be posted on the DSCYF website.
- C. Absent exigent circumstances, DSCYF personnel shall not use children, family members, friends, neighbors or clients to provide language assistance services in any context, including any situation involving child welfare, juvenile

delinquency and/or child behavioral and mental health. Using such individuals could result in a breach of confidentiality, a conflict of interest, or inadequate interpretation.

- D. DSCYF will deliver benefits and services that recognize individual and cultural differences. Each client will be given equal access to benefits, services, and activities, regardless of whether they are delivered by the Department or contracted providers.

III. DEFINITIONS

- A. Interpretation – The act of listening to spoken words in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.
- B. Language Assistance Services – All interpretation and/or translation services provided by staff persons, volunteers, or contractors (collectively, personnel) to a limited English proficient individual in his/her primary language to ensure their ability to communicate effectively with DSCYF personnel or contracted providers.
- C. Limited English Proficient (LEP) Person – Any person who does not speak English as their primary language and who has a limited ability to read, write, speak or understand English. LEP persons may be competent in certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing).
- D. Meaningful Access – Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual.
- E. Primary Language – The language in which an individual most effectively communicates with others.
- F. Translation – The replacement of a written text from one language (source language) into an equivalent written text in another language (target language).
- G. Vital Documents – Written paper or electronic material that contains information that is critical for accessing the Department’s benefits or services or is required by law.

IV. LANGUAGE ACCESS COORDINATOR

DSCYF shall designate a person who serves as the Department’s Language Access Coordinator who will be responsible for managing the various aspects of the Language Access Policy and implementation plan. It may also be appropriate to designate additional personnel who can ensure that sufficient language assistance services are provided in Department individual secure and non-secure detention programs, Ferris School and state-run behavioral health facilities.

V. **IDENTIFICATION OF LEP PERSONS IN NEED OF LANGUAGE SERVICE ASSISTANCE**

A. Delaware's Demographics:

1. No later than May 15 of each year, the Language Access Coordinator will work with a DSCYF Management Analyst to research available demographic data from the Delaware Department of Education and the U.S. Census Bureau. This information will assist the Department in identifying: (a) additional or different foreign languages that may be frequently encountered by the Department; (b) changes in the number of LEP persons who communicate in specific foreign languages and (c) those geographic areas in Delaware where personnel may encounter specific languages other than English.
2. Through this research, each division will assess the LEP population growth or stability.

B. Documentation of Interactions with LEP Individuals: DSCYF obtains data on its interactions with LEP persons through information collected by its case management staff and the billing statements provided by its contracted language service providers.

1. Case managers are required to document in FACTS the language assistance needs, the actual language assistance services that were given to the family and any future language assistance the Department may need to provide to a client or the family in the future.
2. By completing the Family Language Assistance Needs Chart (Appendix A), the case manager opening or updating a case indicates if a family member or a family support person needs language assistance services to meaningfully access or participate in any aspect of the Department's handling of a client's case, such as participation in meetings or discussion of treatment plans. The intent is to maintain accurate and timely information regarding family language assistance needs.
3. DSCYF receives periodic billing information from its language services contractors on the extent of their provision of interpretation and translation services to the Department. FACTS II will provide an internal tracking capability for billing information for its language services contractors.

C. Analyzing Interactions with LEP Persons: Through the above sources of data, the Department strives to have a comprehensive understanding of the nature and quantity of its interactions with LEP individuals.

1. Every two months, the Language Access Coordinator will review the most recent data on the total number of language access services offered to or provided by DSCYF to LEP individuals and families.
 2. No later than May 15 of each year, DSCYF will tabulate and analyze data to determine the breadth and scope of language services required by clients and family members. Specifically, it will collect and track data on each of its interactions with an LEP person, including information about the person's national origin, the identification of the individual needing language services (i.e., client or family member), the primary language spoken by the individual, how the DSCYF provided language assistance services, and information that might assist the Department in providing language assistance during future encounters with that LEP person. To that end, the Department will use FACTS II to prepare a report for each division that compiles case management information on its interactions with LEP persons. In addition, this information may be used to support a request in annual budget preparation should the need for additional language access resources be identified.
 3. The Language Access Coordinator will work with the appropriate management staff to acquire this information.
 4. The Language Access Coordinator will also use FACTS II to evaluate the billing statements provided to the Department by its language services contractors.
- D. Identifying LEP Individuals: The Department uses various methods to identify LEP persons who need language assistance services. These include:
1. Relying on information that the Department has already collected on previous or current cases regarding its provision of language assistance services. For instance, the FACTS II database will have an alert feature that is activated whenever specific client information should be captured to ensure client and public safety or to use in the decision-making process for services. As part of this alert feature system, personnel document whether a family member needs an interpreter to participate in meetings. (See Appendix A-Family Language Assistance Needs Chart.)
 2. Relying on "Language Identification" cards that cover those languages that are most frequently encountered in DSCYF's area of operations. These cards should be used by staff on a day-to-day basis to determine and document the need for particular language services during routine activities and encounters. (See Appendix B-Census 2010 Language Identification Cards)
 - a. These language identification cards should be used by all case management staff, community based services personnel, and personnel having initial contact with the general public.

- b. The purpose of the cards is to facilitate staff's identification of an LEP person's primary language so that they can promptly provide interpretation services.
- c. The Department keeps "Language Identification" cards at staff work stations, reception areas, and anywhere else it is likely that Department personnel will have contact with the general public. Staff should also carry the cards on their person if they are likely to encounter LEP individuals and a "Language Identification" card is not otherwise readily available.

VI. PROVIDING ORAL LANGUAGE ASSISTANCE SERVICES

- A. Oral Language Resources: In orally communicating with LEP persons, the Department primarily relies on two language assistance resources: (1) contractors who can provide in-person or telephonic interpretation assistance or 2) staff persons that have received formal certification as interpreters.
 1. **Language Access Contractors**: The State of Delaware and DSCYF have entered into contracts with several providers for interpretation services. These contracted providers are available to staff statewide, 24 hours per day, seven days per week.
 2. **Personnel with Qualified Foreign-Language Ability**: In order to use staff's foreign language abilities in critical processes (in non-exigent situations) the staff person must have received certification in language interpretation. This certification is privately obtained and is not offered by the state of Delaware.
 3. This certification process provides an important level of assurance that a staff person has received proper training in communicating effectively with an LEP individual, either through direct "in-language" communications or as an interpreter, and greatly reduces the possibility of communication errors.
- B. General Protocols for Identifying an Individual's Specific Language Needs. DSCYF's goal is to ensure effective communication between the Department and LEP individuals, which requires that staff and LEP persons have a thorough and unequivocal understanding of their dialogue with each other.
 1. Because many clients and their families may be bilingual in their native language and in English for certain types of communications but not others, or may have some proficiency in English and their native language, DSCYF staff should identify an individual's primary language, both for verbal communication and for receiving written communication.
 2. Staff will not solely rely on their own assessment of an individual's English proficiency in determining the need for an interpreter. If an individual requests an interpreter, the Department will provide an interpreter free of charge to the LEP individual.

3. DSCYF staff may choose to utilize language assistance services in any situation where they are not able to communicate at a satisfactory level with an LEP individual.

C. General Protocols for Providing Interpreter Services:

1. In evaluating how to provide oral language assistance to an LEP individual, staff should consider the importance of the communication at issue.
 - a. During critical interactions, it is especially important to ensure that staff and an LEP individual can communicate effectively with each other. Thus, as a policy, and in an effort to mitigate the Department's liability risks, when staff members interact with LEP individuals during critical encounters, absent exigent circumstances, they should rely on contracted interpreters. For example, personnel should rely on contracted interpreters during interactions with LEP individuals regarding intake, medical or mental health treatment, case management, and discipline. In the medical context, absent an exigent circumstance, personnel should rely on qualified medical personnel or a language services contractor to provide interpretation assistance, rather than relying on line staff. When personnel need to contact a contractor for any language assistance, they should select an appropriate firm from the Department's list of contracted providers, which is located on the Department's extranet site under Communications and then Contractual Resources.
 - b. Personnel should use contracted telephonic interpretation services in child welfare/case management situations for scheduling appointments and for encounters with clients that are expected to last less than a half hour. For interviews, investigations, and other meetings with LEP clients that are expected to take longer than a half hour, DSCYF staff should request an in-person contracted interpreter.
 - c. There may be situations where, because of an unanticipated urgency, staff do not receive advance notice of the need for qualified language assistance services and cannot schedule a qualified in-person interpreter. In those circumstances, personnel should secure telephonic interpretation assistance from a contractor.
 - d. During relatively unimportant oral communications with an LEP individual, personnel may rely on a self-identified bilingual staff member to communicate with LEP persons in their primary language, such as in providing simple directions and or relatively casual information. If a self-identified bilingual staff member is not available for those verbal communications, then personnel should utilize a DSCYF-contracted telephonic interpreter to complete the dialogue at no cost to the LEP person.

2. If there are special concerns that arise in connection with a particular communication, such as the presence of **a conflict of interest or a concern about confidentiality**, then personnel should rely on contracted interpreters. For example, a case worker investigating the possibility of abuse or neglect cannot conduct an inquiry where the worker will both interpret and interject their own questions or interpret if the communication may be responsible for a critical finding or decision.

VII. TRANSLATION OF DOCUMENTS

- A. Importance of Providing Written Language Assistance: It is the Department's goal that vital documents be accessible to all LEP individuals, regardless of their primary language. Throughout DSCYF, service divisions shall ensure that documents vital to the description of available services, benefits, and client rights, materials related to program orientation, legal rights, requests for meeting participation, rules and expectations for clients and/or their families and disciplinary processes are accessible to LEP individuals.
 1. Pro-actively, because Spanish is statistically the language that is most identified with LEP individuals in Delaware, each service division should ensure that all vital documents, as listed above in Section VII.A. are translated into Spanish.
 2. When a vital document is not available in a foreign language other than Spanish or when a non-vital document is requested (but not available in the LEP person's primary language), personnel should provide sight translation of that document. Under this process, staff should ensure that contracted language service providers provide oral interpretation of the document so that the client/family can understand the information that would normally be available to them through a translated document.
 3. Translated documents must indicate the availability of free interpretation services (as described in Section VI.) which the Department provides through staff with qualified foreign-language proficiency or contract interpreters.
- B. Process for Identifying and Translating Vital Documents:
 1. Each division will identify its vital documents, which will include those documents described in Section VII.A., as well as any additional vital documents that specifically relate to the services offered in that division. These additional, division-specific vital documents include program service descriptions and all critical aspects of case management services.

2. After identifying vital documents, each division should ensure that they are available in Spanish. If a vital document is not available in Spanish, personnel should contact an appropriate DSCYF contractor to translate it into that language. In securing a contractor to translate a document, staff should, at the outset of any such project, identify the turnaround time for the translation of the written material.
 3. DSCYF determines whether specific documents should be translated into foreign languages other than Spanish. On a case-by-case basis case management staff must evaluate if the services discussed with the family should also be made available with translated documents in this other language. Determining factors for consideration could be:
 - a. If the use of an interpreter could fully explain this service, or
 - b. If what is discussed is a brief exchange and not considered a critical service or extensive service requiring the family to rely on resource materials.
 4. From a policy perspective, the Divisions should make annual decisions on what documents to include for translation from the data revealed in the review of LEP populations from the Delaware Department of Education, the U.S. Census Bureau and the Department's analysis of this data.
- C. If a Department employee receives a document from a client that requires translation, the employee should ask a contracted interpreter to provide a sight translation of the document:
1. Fax the document to the language assistance provider and request a sight translation via a phone conference with the client.

VIII. MONITORING CONTRACTED SERVICE PROVIDERS

DSCYF requires that contracted service providers have appropriate written language access plans, policies or protocols for families or clients receiving benefits or services (i.e., communications regarding family involvement, intake, orientation, medical or mental health treatment, visitation rules and schedules, case management services, educational and other programs or services, discipline and aftercare). To ensure compliance, DSCYF monitors contractor compliance with their oral language access obligations, including making sure that each contractor has readily available lists of qualified interpreter staff, bilingual staff, contracted telephonic interpreters or other contracted interpreters who can provide in-person assistance. DSCYF shall also ensure that contract providers provide appropriate written translation assistance to LEP persons. As part of this monitoring responsibility, DSCYF should ensure that

XII. REVIEW AND REFINEMENT OF THE LANGUAGE ACCESS POLICY

- A. The Language Access Coordinator will review the Department LEP Policy and associated compliance issues at least annually and make recommendations to the Department leadership.
- B. The recommendations should include data on any significant changes within the state's population, issues regarding the allocation of money to state language assistance contractors and any proposed changes to the policy and plan.
- C. In evaluating the deployment of additional or different language resources, the Department will consider the prevalence of minority-language populations that may have been underserved because of existing language barriers.

APPENDIX A: Family Language Assistance Needs Chart

Family Language Assistance Needs Chart

Household Composition	Relationship	Languages Spoken	Primary Language	National Origin	Identified Language Service Needs
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					

COMPLETED EXAMPLE: Family Language Assistance Needs Chart

Household Composition	Relationship	Languages Spoken	Primary Language	National Origin	Identified Language Service Needs
1. John Smith	Client	English and Spanish	English	Wilmington, DE	None
2. Mary Alvarez	Grandmother (Legal Custodian)	English and Spanish	Spanish	Puerto Rico	Yes
3. Linda Alvarez	Sibling	English and Spanish	English	Wilmington, DE	None
4. Brenda Yard	Step-Sister	English and Spanish	English	Dover, DE	None
5. Jim Reyes	Grandmother's Paramour	English and Spanish	English	Mexico	None
6.					
7.					
8.					