

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Elections (DCBOE)



LANGUAGE ACCESS POLICY FOR COVERED ENTITIES

PURPOSE

The purpose of this policy is to ensure that the DC Board of Elections' ("DCBOE") programs and services meet the requirements of the Language Access Act of 2004, which seeks to promote greater public access and participation in government services, programs, and activities. As a covered entity, DCBOE must provide equal access to programs and services to all persons living in, working in, or visiting the District of Columbia, regardless of their ability to speak English.

AUTHORITY

This policy is consistent with the DC Board of Elections' mission, as well as applicable federal and District of Columbia laws, rules, and regulations. These laws, rules, and regulations include but are not limited to the Civil Rights Act of 1964; the Language Access Act of 2004, D.C. Law 15-167, D.C. Official Code §2-1931 *et seq.*, effective June 19, 2004; and D.C. Municipal Regulations 4-12.

APPLICABILITY

This policy shall apply to all DCBOE members, defined as all employees as well as volunteers, grantees, contractors, and affiliates providing direct services to the public on DCBOE's behalf.

DEFINITIONS

For the purpose of this policy, the following definitions apply:

- A. **"Bilingual"** refers to the ability to use two languages proficiently.
- B. **"Customer"** means an individual who may attempt to benefit from or receive services that DCBOE provides.
- C. **"Interpretation"** is the conversion of oral wording from one language (the source language) into equivalent oral wording in another language (the target language). Interpretation may occur in-person or over the phone. Although the public and media often use the term interchangeably with "translation," the word "interpretation" refers to oral speech and "translation" refers to written texts.

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- D. **"I Speak' Cards"** are a resource with which limited or non-English proficient individuals may identify themselves and their primary language. The wallet-sized cards are promulgated by the D.C. Office of Human Rights and state the following in both English and the applicable non-English language: "I speak [non-English language]. I need assistance and have the right to receive assistance in my spoken language. Please provide me with an interpreter and note my spoken language in your permanent records. Thank you."
- E. **"Language Access Point of Contact (POC)"** refers to the official within DCBOE who coordinates and supervises DCBOE's activities undertaken to comply with the provisions of this policy.
- F. **"Language access services"** entail assessing the need for assistance in a language other than English and offering interpretation and/or translation to facilitate communication.
- G. **"Language Line"** refers to Language Line Solutions, a company that provides interpretation services over the phone for all DC government agencies.
- H. **"Language ID Guide"** is a tool that Language Line provides for identifying a customer's primary language. The Language Access Coordinator supplies this tool to members.
- I. **"Language threshold"** denotes DCBOE's exposure to a non-English language spoken by a limited or non-English proficient population that constitutes 3% of the agency's customers or 500 individuals, whichever is less. Once the DCBOE reaches the threshold for a language, the agency must provide translations of vital documents in that language.
- J. **"Limited English proficient (LEP)"** describes an individual who does not use English as a primary language and who has a limited ability to speak, read, write, or understand English.
- K. **"Members"** are all agency employees, as well as volunteers, grantees, contractors, and affiliates providing direct services to the public on behalf of the DCBOE.
- L. **"Non-English proficient (NEP)"** describes an individual who does not speak, read, write, or understand English.
- M. **"Primary language"** indicates the language that a customer is most comfortable using. It is usually (but not always) the person's first or native language.
- N. **"Staff Language facilitator"** are agency employees that are bilingual and are certified as proficient in a target language. The staff language facilitator should be able to communicate the agency's mission, programs, services and activities in the target language.

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- O. **“Translation”** is the conversion of written wording from one language (the source language) into an equivalent wording in another language (the target language). Although the public and media often use the term interchangeably with “interpretation,” the word “translation” refers to written texts and “interpretation” refers to oral speech. There are two forms of translation:
- (1) Written translation is the conversion of written text from the source language into written text in the target language.
 - (2) Sight translation is the oral rendering of a written text from the source into the target language; it is not normally a direct word-for-word translation.
- P. **“Vital documents”** include the applications, notices, forms, agreements, and outreach materials that the DCBOE publishes or distributes to inform customers about their rights or eligibility requirements for participation in agency programs.

REGULATIONS

Data collection

The DCBOE must collect and report data on the non-English languages spoken by LEP/NEP customers and the resources available to provide language assistance to LEP/NEP customers. This data collection serves two purposes:

- (1) To determine whether the DCBOE has reached the language threshold for a given non-English language, establishing the language(s) into which the agency must translate its vital documents; and
- (2) To record the customer’s primary language in LEP/NEP case files, ensuring that further interactions with previously identified LEP/NEP customers include appropriate language accommodations.

Accordingly, members shall document all agency encounters with LEP/NEP customers. The Language Access Point of Contact shall report the resulting data to the D.C. Office of Human Rights annually. At the end of each fiscal year, the Language Access Point of Contact shall submit an implementation report identifying the non-English languages that meet the agency’s language threshold, as well as the resources available to the LEP/NEP populations who speak these languages.

Signage

Members must ensure that all DCBOE facilities that are open to the public – including mobile locations – feature visible signage informing customers of their rights to obtain assistance in a language they can understand, free of charge. Signage must include information in all non-English languages that meet the agency’s language threshold. To

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inform the public of language access services, DCBOE's facilities shall feature the following signs and posters:

- (1) Language Line Desktop Language ID Guides
- (2) What Every Voter Should Know
- (3) Vote Here
- (4) Accessible Parking
- (5) Elevator Voting Location
- (6) Accessible Voting
- (7) Contact the Site Coordinator
- (8) Alternate Entrance
- (9) Multi-language Interpreter Available

Translation

The DCBOE must provide written translations of vital documents into all non-English languages that meet the agency's language threshold or languages that are likely to be served. These documents include but are not limited to applications, notices, complaint forms, outreach materials, and other documents regarding customer rights or program eligibility requirements. Translations of vital documents must be as accessible to the public as the English versions are. To this end, members shall distribute the translations within the DCBOE, make them accessible at the entry points of agency facilities, and post them online.

Interpretation

Members must establish and maintain full and effective communication with customers of all English proficiency levels. To this end, members shall offer interpretation services either over the phone or in person, whichever is more effectual, in the primary languages of all customers identified as LEP/NEP. In so doing, members shall:

- (1) Avoid assumptions about a customer's primary language and make every effort to ascertain it (for example, some Central Americans use an indigenous dialect as their primary language rather than Spanish);
- (2) Provide interpretation whenever requested by a customer, regardless of the customer's perceived level of English proficiency;

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- (3) Neither discourage LEP/NEP customers from seeking DCBOE's services, nor refuse agency services to such customers;
- (4) Deliver DCBOE's services in a timely manner, i.e., without delays that are significantly greater than those that English proficient customers experience;
- (5) Exclusively use professional and qualified interpreters to interpret for LEP/NEP persons, and **not** family, friends, neighbors, volunteers, bystanders, or children and the interpretation waiver has been executed;
- (6) Provide interpretation for LEP/NEP customers attending DCBOE's public meetings if the agency receives notice of their presence at least five (5) business days in advance of the public meeting; and
- (7) Make interpretation services available to LEP/NEP customers who participate directly in DCBOE's administrative hearings, whether or not the customer is accompanied by an advocate or attorney.

Waiver of language access rights

LEP/NEP customers may insist on using a family member or friend as their interpreter, or may otherwise refuse the DCBOE's language access services. In such cases, the DCBOE must obtain written consent that waives the customer's rights to translation and interpretation services. To do so, agency members must provide customers with a waiver form in their primary language, which the Office of Human Rights supplies. If a written translation is not available in the customer's primary language or if the customer is unable to read, the DCBOE may use sight translation to convey the contents of the waiver form to the customer.

Bilingual staff

The Language Access Point of Contact shall maintain a list of all bilingual staff members who may or may not agree to act as language facilitators or, if properly trained, as interpreters for the LEP/NEP population whose primary language they speak. Staff language facilitators or interpreters must be able to:

- (1) Communicate fluently and accurately in the non-English language(s) in which they claim proficiency;
- (2) Interpret exact concepts without distorting meaning in either language; and
- (3) Understand the obligations of confidentiality as appropriate.

The DCBOE shall take reasonable steps to screen self-identified bilingual staff members who request to be placed on the list of language facilitators. Based on this list of available staff language facilitators and both the established and anticipated demand for

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language access services, the DCBOE shall determine its existing capacity for assisting LEP/NEP customers. To the extent that it requires additional capacity for providing interpretation services, the agency must give preference to qualified bilingual individuals when hiring for existing budgeted vacant public contact positions.

Language access training

All DCBOE members in public contact positions must be proficient in the requirements and legal obligations for serving LEP/NEP customers. To this end, members must attend either web-based or in-person trainings provided by the D.C. Office of Human Rights. Training shall occur as part of the onboarding process for new members, and as part of compliance training for existing members.

Funded entities and contractors

Contractors, including third party providers, hired by the DCBOE to carry out services, programs, or activities directly to the public are required to a) collect data regarding contact with LEP/NEP customers and report this data to the DCBOE on a quarterly basis, b) provide oral interpretation services, c) translate vital documents, and d) train personnel on all compliance requirements according to the same standards required of the DCBOE, e) by agreement, certify in writing that LA Act compliance requirements will be satisfied by contractors, and f) display relevant multilingual signage.

The DCBOE shall use the following procedures to ensure that funded entities and contractors hired by the agency comply with the requirements of the Act, according to the same standards required of the agency.

- 1. Include language access compliance requirements for funded entities and contractors in all Notices of Funding Availability (NOFA) and Requests for Proposal (RFP) issued by the DCBOE.**
- 2. Require that all funded entities and contractors certify in writing that they will meet language access compliance requirements in contracts, memorandums of understanding, or work agreements signed between funded entity/contractor and the DCBOE.**
- 3. Ensure that contractors receive language access compliance training through OHR, or that they are using training material approved by OHR.**
- 4. Provide guidance on language access compliance to contractors by connecting them to translation and interpretation vendors, and by providing them with a clear process for collecting data and for reporting all encounters with LEP/NEP customers to the DCBOE.**

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Language access complaints

Any person or organization may file a public complaint alleging a violation of the Language Access Act. The D.C. Office of Human Rights addresses these complaints, which may regard both individual and systemic noncompliance. A customer may file the complaint directly, but a person or organization with an interest in the customer's welfare may also file a complaint on the customer's behalf. Members shall in no way retaliate against complainants and/or their representatives, and shall provide these persons or organizations with the same level of service that other customers receive. Should a customer wishing to file a language access complaint contact the DCBOE, members shall report the incident to the Language Access Coordinator, and provide the customer with the following resources:

- (1) The Office of Human Rights Language Access Complaint Form;
- (2) The URL for the online Office of Human Rights Language Access Complaint Form (<http://ohr.dc.gov/page/language-access-public-complaint-form>); and/or
- (3) The Office of Human Rights phone number (202-727-4559).

Resources

Members shall have the following resources available to better serve LEP/NEP customers: digital and hard-copy translations of vital documents; access to contracted in-person and telephonic interpreters, as well as to the list of DCBOE's bilingual staff; materials from the Office of Human Rights, such as "I Speak" Cards and Language ID Guides and training.

PROCEDURES

Identifying LEP/NEP persons

Members must keep in mind the fact that LEP/NEP designations are context-specific; LEP/NEP persons may possess sufficient English language skills to function in certain types of communication (e.g., speaking or listening), but still be LEP/NEP for other purposes (e.g., reading or writing). When members suspect or are told that customers they encounter are LEP/NEP, they shall use the following protocol to determine whether or not the customers are actually LEP/NEP:

1. Ask: "Do you speak English very well?"
 - a. If the person answers "Yes," continue communicating with the person in English. Individuals who speak any non-English language and also report speaking English "very well" should be regarded as English proficient and should not be considered LEP/NEP persons.

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2. Use the Language ID Guide.

Language Line provides a guide for identifying a customer's primary language. Members obtain this guide from the Language Access Point of Contact, and shall display it to LEP/NEP customers who are unable to identify their primary language in response to a member's questions. If the customer successfully identifies a language using the guide, members should follow procedures outlined in #2 of the "Obtaining an interpreter" section (page 9) of this policy to obtain an interpreter for this language.

3. Call Language Line.

If LEP/NEP customers do not appear able to read or understand the Language ID Guide or are otherwise unable to identify their primary language, members shall call the Language Line service by following the procedure outlined #2.b in the "Obtaining an interpreter" section (page 9) of this policy. With assistance from Language Line, members shall attempt to ascertain the LEP/NEP customer's language in order to obtain a suitable interpreter.

Obtaining an interpreter

Whenever a DCBOE member contacts or is contacted by an LEP/NEP customer by telephone or in person, the member shall:

1. Ascertain the LEP/NEP customer's English proficiency and primary language as outlined in the "Identifying LEP/NEP persons" and "Identifying the primary language" sections (pages 7 and 8) of this policy.
2. Ascertain the availability of a bilingual member on the list of staff who speaks the non-English language in question.
 - a. If such a bilingual member is immediately available, the DCBOE member serving as the point of contact shall transfer communication to the bilingual member.
 - b. If such a bilingual member is not immediately available, the DCBOE member serving as the point of contact shall request an interpreter from Language Line by calling the Language Line number (1-800-367-9559) and providing the DCBOE's Client ID, and Access Code. Members receive this information from the Language Access Coordinator.

Collecting data

The DCBOE shall use the following mechanisms to collect data:

1. Language Line Reports;

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2. Reception area or Information desk sign-in sheets that include multilingual language preferences;
3. Flags/tags/specialized labels for LEP/NEP case files within the record management system;
4. Reports from bilingual staff on the number of times they are asked to assist an LEP/NEP individual; and
5. Tally of customers who use interpretation equipment at outreach events.

Translating vital documents

1. The Language Access Point of Contact shall identify and maintain a record of all vital document translations.
2. If a vital document translation is not available on the agency Internet or Intranet websites, members shall request a translation of that document by contacting ogc@dcboe.org.
3. Should LEP/NEP persons require a vital document that has not been translated into their primary language, members shall follow the procedures outlined in #2.b of the "Obtaining an interpreter" section (page 9) of this policy to contact Language Line. Members shall request a sight translation by reading the document to the Language Line interpreter.

Written communication

1. If a member receives a letter or other written communication in a non-English language, and the member is not bilingual in that language, the written communication shall be forwarded to the Board's Americans with Disabilities Act/Language Access Point of Contact, *Jay Penuel*.
2. Within two business days of receiving the letter, *Jay Penuel* shall respond to the sender with an acknowledgement letter in the sender's language, and arrange to have the original correspondence translated into English.
3. Once the written communication is translated into English, *Jay Penuel* shall forward the English version of the communication to the intended agency recipient for response.
4. The member responsible for writing the response shall do so and then forward the response to *Jay Penuel*.

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5. *Jay Penuel* shall arrange to have the response translated into the target language and mail the response to the sender, with a copy to the member who prepared the response.

Screening bilingual staff

To determine the aptitude of bilingual staff members who wish to serve as language facilitators the Language Access Point of Contact will implement the following screening process:

1. A written language proficiency test; and
2. An oral language proficiency test.

ROLES AND RESPONSIBILITIES

DCBOE's Executive Director

1. Establish (or designate a member or team to establish) procedures for:
 - a. Providing interpretation over the phone and in person;
 - b. Engaging in written communication with LEP/NEP customers;
 - c. Translating vital documents; and
 - d. Collecting data on LEP/NEP encounters.
2. Appoint a Language Access Point of Contact responsible for overseeing the agency's internal LA policy and establish a Language Access Team to assist the POC.

Language Access Point of Contact

1. Ensure the DCBOE's compliance with the Language Access Act of 2004 and corresponding guidelines and regulations.
2. Submit an annual progress report to the Language Access Director at the Office of Human Rights.
3. Provide guidance, advice, resources, and training to DCBOE members regarding the language access services.
4. Identify and screen bilingual staff members to serve as agency interpreters.
5. Identify and maintain a record of the DCBOE's vital documents.

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- 6. Track, monitor, and investigate public complaints regarding alleged language access violations at the DCBOE.
- 7. Recommend corrective action for conduct contrary to this policy.

Language Access Team

- 1. Assist the POC with data collection, annual reporting, customer complaints, training of personnel in public contact positions, and other elements of compliance.
- 2. Comprise the following positions at the DCBOE:
 - a. Senior Agency Contracting Officer
 - b. Senior Public Information Officer
 - c. Senior Human Resources Specialist
 - d. Language Access Point of Contact
 - e. Division or Program Director or Designee from the following divisions:
 - i. Voter Education and Outreach
 - ii. Voter Services
 - iii. Election Worker Division

II. APPROVAL

This policy is effective immediately upon signature.



**DC Board of Elections' Executive Director
Signature**



Date

Effective Date:

5/9/2023

Review Date:

5/9/2023

Distribution:

All agency members