State of Hawaii

Department of Labor and Industrial Relations

Limited English Proficiency Plan

March 17, 2016

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS' LIMITED ENGLISH PROFICIENCY PLAN

INTRODUCTION

The Department of Labor and Industrial Relations (DLIR) implemented the "Limited English Proficiency (LEP) Plan," to address language access issues on May 3, 2006. DLIR is committed to continually review and revise the plan based on recommendations from customers, interested stakeholders, employees and the public.

Presidential Executive Order 13166, "*Improving Access to Services for Persons with Limited English Proficiency*" was created to "...improve access to ...federally assisted programs and activities for persons, who as a result of national origin, are limited in their English proficiency...." Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d ("Title VI") serves as the basis for Executive Order 13166. Title VI provides 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."

Several divisions and agencies of the State of Hawaii Department of Labor and Industrial Relations receive Federal funding from the U.S. Department of Labor and, by virtue of the funding, Title VI applies to all DLIR's operations. See 29 CFR sections 31.1; 31.2(g); and 31.3.

The Legislature passed Hawaii's language access law as Act 290 (SLH 2006), which was codified as Part II of chapter 371, Hawaii Revised Statutes (HRS). Act 201 (SLH 2012), transferred the law to chapter 321C, HRS. DLIR seeks to implement the initiatives set forth in this LEP Plan to meet its obligations under Title VI and chapter 321C, HRS. The purpose of this LEP Plan is to take reasonable steps to ensure persons with limited English proficiency gain meaningful access to DLIR services and programs.

Hawaii's population reflects a rich blend of peoples and cultures. According to the U.S. Census Bureau, Detailed Languages Spoken at Home and Ability to Speak English for the Population 5 Years and Over for States: 2009-2013, released in October, 2015, 25.4% of Hawaii's 1.3 million people speak a language other than English at home. For many, English is not their primary language. Many have only a limited ability to read, write, speak, or understand English. Language barriers often make it difficult for many residents to fully participate in our community and undermine their efforts to become self-sufficient and productive. This LEP Plan exhibits DLIR's commitment to provide essential and meaningful access to LEP customers.

This Plan applies to all DLIR agencies and administratively attached agencies.

DEFINITION OF LIMITED ENGLISH PROFICIENT PERSONS/CUSTOMERS

For purposes of this LEP Plan, LEP persons or LEP customers mean individuals who do not speak English as their primary language and who self identifies as having a limited ability to read, write, speak or understand English. Such persons may be eligible to receive language assistance with respect to a particular service, benefit, or encounter free of charge.

RELEVANT FACTORS

In determining how to provide effective and meaningful access to LEP customers, the U.S. Department of Labor has established the following four guidelines (68 Fed. Reg. 32290, 32294 (May 29, 2003)), which are also in HRS § 321C-3(a) (1)-(4):

1. The number or proportion of LEP persons eligible for service or likely to seek services from a program.
2. The frequency with which LEP persons encounter a program.
3. The nature and importance of the program, activity, or service provided by the program to LEP persons.
4. The resources available to the program and the costs of providing interpretation/translation services.

The touchstone of this four-factor analysis is reasonableness—reasonableness as measured by balancing: (1) the size, needs, and the nature of assistance to the LEP population served, and (2) DLIR's capacity and available resources.

Note: Where there is not a "significant" number or proportion of LEP persons in the community serviced by DLIR, DLIR will make reasonable efforts to meet the particularized language needs of limited-English speaking individuals who seek services or information from DLIR, pursuant to HRS § 321C-3.

SUMMARY

This DLIR LEP Plan is comprised of seven (7) components:

1. **Development of a reporting system designed to obtain key information about the LEP customers who use DLIR services.**

   Each program will have in place mechanisms in its reporting system to assess, on a regular basis, the LEP status and language assistance needs of current and potential customers, as well as mechanisms to assess the Department's capacity to meet these needs according to the components of this plan.

2. **Compilation of comprehensive multilingual listing of DLIR employees.**

   DLIR developed and maintains a volunteer employee list that is distributed to its divisions and agencies and posted on DLIR's intranet semi-annually by the Language Access Coordinator.

3. **Notice of interpretation/translation services to LEP customers.**

   Each division, program and activity at DLIR will proactively inform LEP individuals of the availability of free language assistance services.

4. **Providing interpretation/translation services for LEP customers.**

   Each division, program and activity at DLIR will arrange for the provision of oral languages assistance in response to the needs of LEP individuals, in both face-to-face and telephone encounters.

   Each division, program and activity at DLIR will produce vital documents and information in languages other than English where a significant number of customers served or eligible for service have limited English proficiency (using the four-factor analysis discussed in the "RELEVANT FACTORS" section above). These written materials may include paper and electronic documents, such as publications, notices and correspondence and vital information on the DLIR website.

5. **Designation of a Language Access Coordinator.**

   The Director of Labor and Industrial Relations designated Bill Kunstman as the Language Access Coordinator.

6. **Training DLIR staff on the implementation of this plan.**

   DLIR trains staff on the department's legal obligation to LEP persons and on how to identify and assist LEP persons. Staff shall participate in a refresher training every year to ensure that they are aware of their responsibilities to LEP customers. New employees receive training and instruction on how to assist LEP persons when they begin their employment with DLIR.

7. **Seeking stakeholders' input, review and revision of the LEP Plan.**

   DLIR will institute procedures to assess the accessibility and quality of language assistance activities for its LEP customers. The Language Access Coordinator will also monitor assessments.

   DLIR, through the Language Access Coordinator, will actively seek input from groups that assist LEP customers, including those who advocate for the interests of immigrants, refugees and others who may be LEP consumers of DLIR services.

An explanation of the seven components follows:

LEP PLAN

I. DEVELOPMENT OF A REPORTING TOOL TO OBTAIN KEY INFORMATION ABOUT THE LEP CUSTOMERS WHO USE DLIR SERVICES

DLIR will continuously gather information about what languages LEP persons speak and the services they use to ensure meaningful access. DLIR's Research and Statistics Division (R&S) developed a comprehensive survey form designed to collect the information necessary to enable DLIR to deliver

meaningful access to LEP customers. R&S developed a procedure for each DLIR division or agency to complete the form. R&S compiles the data on a semi-annual basis and provides a report to the departmental Language Access Coordinator (Appendix A).

The DLIR website includes language buttons in the most commonly spoken languages in Hawaii, which will take the customer to a paragraph in that language that gives directions on obtaining assistance. DLIR keeps statistics on the usage of those language buttons.

II. COMPILATION OF COMPREHENSIVE LISTING OF MULTILINGUAL DLIR EMPLOYEES

DLIR maintains a list of multilingual employees and the language or languages that they can speak or read, the degree of fluency in those identified languages, and the contact information for that DLIR employee (Appendix B). An employee on this list may be contacted when a LEP customer of DLIR services needs language assistance. The procedure for providing language assistance is contained in Section IV.

Although a DLIR employee may not be fluent in a particular language, depending on the circumstances, that employee's language skills may facilitate a certain comfort level that may contribute significantly to meeting a LEP customer's needs. However, multilingual employee volunteers are to assist LEP persons with basic, ministerial, non-substantive issues only. For substantive issues or to understand vital documents, an interpreter or translation service is required, unless the multilingual employee volunteer has had proper interpreter training or certification. All DLIR multilingual employee volunteers are encouraged to complete training in interpretation techniques.

III. NOTIFICATION OF INTERPRETATION/TRANSLATION SERVICES TO LEP CUSTOMERS

A. OFFICE NOTICE

The Language Access Coordinator convened a LEP working group to translate "Babel" Notices into the department's ten most requested languages. In 2015, DLIR procured translation services so that all of its programs have this notice in ten languages for use in written and electronic materials (Appendix C). The notice indicates that DLIR supplies language services free of charge and contact information. The Language Access Coordinator distributed the notices to all programs of DLIR for their use and/or inclusion in written or electronic materials and with vital documents. DLIR's programs tailor the forms with their own telephone contact information, which connect to a live body when called.

The Babel notices appear as button links on every DLIR program's homepage to help ensure web users have the opportunity to access activities and services with the assistance of free language services.

Lastly, at least one 11" x 17" poster informing LEP customers that DLIR

provides free interpretation services is required in a prominent place in all DLIR offices having contact with the public. Attached is an 8 1/2″ x 11" copy of this poster (Appendix D).

B. NOTICE FOR REQUESTING ORAL INTERPRETATION OF VITAL DOCUMENTS

For vital documents that do not meet the minimum threshold for translation into specific languages, DLIR developed a written notice to attach to documents that states that language services are free of charge upon request. The notice, translated into the ten most commonly spoken languages, invites a person who needs interpretation of a DLIR document to contact the program that issues the document via phone. (Appendix C).

IV. PROVIDING INTERPRETATION/TRANSLATION SERVICES FOR LEP CUSTOMERS

Situations may arise where LEP customers are unable to negotiate through DLIR programs without the assistance of interpreters in their preferred language. To ensure that the inability to communicate in English does not deprive the public of access to services, programs, and activities. DLIR will provide an interpreter, at no cost to the customer, for LEP customers pursuant to the following procedures.

If a customer approaches a DLIR employee and appears to be asking for help, but has difficulty communicating what he or she needs, the employee should proceed with the following according to the facts of the customer approach:

A. IN-PERSON INTERPRETER

The DLIR employee helping the customer should attempt to determine what language that person speaks. If the language cannot be readily determined, the DLIR employee will use the poster, attached as Appendix D, to ascertain what language the customer speaks. The DLIR employee will allow the customer to review the poster and encourage the person to point to the language in which he or she needs an interpreter. Generally, a competent, in-person interpreter is preferred over a telephone interpreter.

NOTE: While it may be customary for LEP customers to bring their relatives or friends as interpreters, it is not appropriate to have relatives, friends, or minors serve as interpreters.

If the customer points to a language on the poster, then the DLIR employee will refer to the multilingual listing of all DLIR employees, attached as Appendix B, and first contact an available interpreter within the DLIR employee's office. If no one is available to interpret within that office, then the DLIR employee will attempt to contact an interpreter in the proximity of his or her own office (i.e. on the same floor). If no one in the proximity of the office is available, then the DLIR employee will contact an interpreter within any office of DLIR. DLIR also maintains a list of contacts within all its programs (Appendix F).

If no one is available within the DLIR, the employee assisting the customer will call an approved language service vendor.

If a DLIR multilingual employee volunteer is available to assist in the requested language, the volunteer will first determine if the issue brought forward by the LEP person is critical and substantive. If the issue is non-substantive or ministerial in nature, the volunteer employee may assist the LEP customer.

If the issue is substantive or involves a vital document, the employee volunteer may only assist the LEP customer if the volunteer has proper interpreter training or certification. If the employee has the proper interpreter training or certification, then assisting the LEP person can continue. If the employee volunteer does not have proper interpreter training or certification, then the employee volunteer will explain to the LEP customer that the employee will need to seek the assistance of a qualified interpreter.

The DLIR staff person will then determine if an in-person interpreter or a telephonic interpreter is needed and will explain this to the customer. After arranging for an interpreter, the volunteer shall fill out the "LEP Encounter Report" for record-keeping purposes.

B. TELEPHONE INTERPRETERS

When DLIR staff ascertains that it is appropriate to provide telephonic interpretation the staff will call an approved language service vendor (Appendix H). The DLIR employee will then give the language service vendor representative the Division Account Number and an interpreter will be connected to the call.

The DLIR employee will (1) brief the interpreter about the situation by summarizing what the employee wishes to accomplish, and (2) convey any special instructions to the interpreter.[1] The DLIR employee will then allow the customer to speak to the interpreter.

When the discussion between the customer and the interpreter is finished, or when the DLIR employee is prompted, the DLIR employee will then speak to the interpreter to find out what the customer needs.

The cost for oral interpretation services shall be borne by the division or agency.

C. NO LANGUAGE SERVICE VENDOR INTERPRETER IS AVAILABLE OR THE LANGUAGE REQUESTED IS NOT LISTED ON THE POSTER

If the language service vendor representative indicates that the language service vendor does not have an available interpreter of the requested language or the language listed on the LEP poster (Appendix D),[2] the DLIR

1 If the speakerphone feature is available on the DLIR employee's phone, then the speakerphone feature should be used to allow both the LEP customer and the DLIR client to be on the line at the same time.

2 Should a LEP customer require sign language services, the DLIR employee may go directly to Appendix "E" and make the necessary arrangements for sign language interpreter services.

employee may contact the interpreter services listed on Appendix E for assistance. Appendix E is a list of interpreter/translation services compiled by the Language Access Coordinator.

If the language that the customer speaks is not available with the language service vendor and is not listed on the LEP poster (Appendix D), the DLIR employee assisting the LEP customer shall contact the Language Access Coordinator and proceed as instructed. The Language Access Coordinator shall contact the administrator of the program servicing the LEP customer, and the Language Access Coordinator and the administrator of the division shall endeavor to grant the request, in whole or in part, by using the four-factor analysis discussed in the "RELEVANT FACTORS" section above.

D. TELEPHONE CALLS

When a LEP customer or a representative of a LEP customer needing oral translation services calls, the DLIR employee should encourage the LEP customer to come into DLIR. The employee shall obtain or help obtain oral translation services. The employee shall fill out a “LEP Encounter Report” for record-keeping.

E. WRITTEN TRANSLATION

As discussed in Section III.B above, a notice regarding the provisions of free language services shall be attached to vital documents to help provide meaningful access to LEP customers. (DLIR has developed a list of vital documents and when the minimum threshold is met, the document shall be translated into specific languages (Appendix G)).

When the Language Access Coordinator receives a request for a written translation, the Language Access Coordinator and the administrator of that particular division shall decide whether the request should be granted using the four-factor analysis discussed in the "RELEVANT FACTORS" section above. It is within the discretion of the Language Access Coordinator and the administrator to select a qualified translator.

V. DESIGNATION OF A Language ACCESS COORDINATOR

The Language Access Coordinator will be responsible for, among other things: (1) the overall implementation of the LEP Plan, (2) responding to any inquiries or comments/complaints regarding the LEP Plan and its implementation, (3) making any revisions and modifications to the LEP Plan, as necessary, (4) training DLIR employees by providing the proper background necessary to implement the objectives of the LEP Plan, (5) serving as the primary contact for LEP customers who may need a written translation of important DLIR documents, and (6) coordinating efforts to implement, monitor, and evaluate input aimed at improving the current LEP Plan. \

VI. TRAINING DLIR STAFF

New employees shall receive training on how to assist LEP persons when they begin their employment with DLIR. All employees shall participate in a refresher training every year.

VII. SEEKING STAKEHOLDERS' INPUT; REVIEW AND REVISION OF THE LEP PLAN

The DLIR, through the Language Access Coordinator, actively seeks input from groups that assist LEP customers, including those who advocate for the interests of immigrants, refugees and others who may be LEP consumers of DLIR services. All interested stakeholders are encouraged to contact the Language Access Coordinator directly.

This LEP Plan is a "*living document*" that shall be reviewed and revised in light of comments from LEP customers, their representatives, interested stakeholders, and DLIR staff. Such review and revision shall take place at least once every two years.

Furthermore, each division will institute procedures to assess the accessibility and quality of language assistance activities for its LEP customers. The Language Access Coordinator will monitor assessments.

All DLIR divisions and administratively attached agencies shall comply with this LEP plan.

Linda Chu Takayama, Director
Department of Labor & Industrial Relations

3/17/16
Date

APPENDICES

A. Language Access Reporting Tool

B. Multilingual DLIR Employee Volunteers

C. Language Access Notice

D. Language Poster

E. Interpreter—Translation Services

F. Internal LEP Contacts

G. Vital Documents List

H. Telephonic Contractor