

Language Access Services for Limited English Proficient (LEP) Persons

The County of Kern is committed to equitably serving diverse populations of the community by ensuring accurate, timely, and effective communication to all persons regardless of their level of English proficiency. Clear and accurate communication is essential to developing trust with the community and effective community policing.

Policy

It shall be the policy of the County of Kern to take every reasonable step to ensure timely and accurate communication to members of the public interacting with civilian and non-civilian staff.

Purpose

This Language Access Plan establishes language access procedures consistent with federal and state mandates for employees to follow when assisting community members with LEP or providing direct services. The purpose of this plan is to remove language barriers that hinder community members with limited English proficiency or persons who are Deaf or hard of hearing from accessing services, understanding their rights, or from accurately and effectively communicating in a variety of interactions with our employees. Meaningful access to individuals with LEP should also be considered in existing and future outreach, community forums, and educational initiatives to the extent practicable to ensure information is effectively disseminated in the appropriate language.

Language Access Mandates

Under Title VI of the Civil Rights Act of 1964, any federally funded agency must take adequate steps to ensure that persons with LEP and/or people who are Deaf or hard of hearing receive, free of charge, the language assistance necessary to allow them access to services.

The State of California prohibits discrimination by agencies that receive state funds and mandates equal access without regard to race, color, national origin, or ethnic group and requires that every local public agency provide language access services to persons with LEP.

Additional Language Access Mandates for Law Enforcement

Additional mandates governing language access services for law enforcement agencies that are considered in this plan include the following:

- Omnibus Crime Control and Safe Streets Act of 1968
- Section 504 of the 1973 Rehabilitation Act
- Americans with Disabilities Act (ADA)
- California Government Code 11135
- Dymally Alatorre Bilingual Services Act.

Miscommunication with members of the community seeking assistance, victims, witnesses, and suspects because of language differences can jeopardize safety and create evidentiary and investigative challenges in addition to impeding access to benefits, social, behavioral, and public health and safety/emergency services.

Law enforcement/safety departments shall prioritize the translation of vital documents including but not limited to Public Complaint forms, Inmate Complaint forms, Miranda Rights cards, Inmate Services Forms, and order to Disperse cards. Moreover, departments obligated to or subjected to mandates must take appropriate measures to translate their websites into languages reflective of the communities served.

Definitions

Primary Language: The language in which an individual is most effectively able to communicate.

Person with Limited English Proficiency (LEP): Individuals whose primary language is not English and have a limited ability to read, write, speak, or understand English. This includes those who have the inability to adequately hear, understand, or cannot speak or have difficulty speaking English, due to a speech impediment, hearing loss, deafness, deaf-blindness, or other disability.

Language Access Services: Interpretation of oral communications and translation of written communications by bilingual employees, qualified interpreters, and qualified translators; telephone internet or video interpretation, and translated materials, as appropriate to, and effective for, the information being communicated and the context of the communication.

Interpretation: The act of listening to a communication in one language and orally converting it to another language while retaining the same meaning.

Translation: Converting written text from one language into an equivalent written text into another language.

Certified bilingual or multilingual staff member: County employees who identify themselves as bilingual or multilingual, demonstrated through formal procedures established by the County of Kern to be proficient in English and a language(s) other than English. See Kern County Administrative Policy and Procedures Manual, Chapter 1, Section 103, Exhibit H- Bilingual Pay Policy.

Qualified Civilian Interpreter or Qualified Translator: Qualified interpreters and/or translators may be an employee of the County, or of an outside agency contracted to provide language interpretation or translation services (whether paid or unpaid). The County will contract with outside agencies to provide in-person and telephonic interpretation services to provide interpretation or translation of communication to and from English and another language in a manner that preserves the intent and meaning of the original message.

Exigent circumstances: Situations that require a temporary deviation from procedures, such as threat to life, safety, or property, a fleeing suspect, or the potential loss or destruction of evidence (e.g., physical loss of property, witness, or victim).

Vital documents: Written information, regardless of format (print or electronic written material, electronic, and audio recordings) that contains information critical for accessing County services and/or

benefits or is required by law. A document is a vital document if it affects access to, retention in, or termination or exclusion from a County Department's programs or activities.

Language Access Coordinator and Points of Contact

County departments must designate a Language Access Point of Contact (LAPC) at each site responsible for disseminating information and serving as a resource for personnel on language access procedures, resources, and tools.

Personnel should contact their department's LAPC with department specific questions about language access protocols.

The Language Access Coordinator is responsible for the following:

1. Implementing and coordinating all aspects of this policy County-wide.
2. Serving as a resource and coordinator for County-wide language access points of contact.
3. Convening meetings of County-wide language access points of contact.
4. Identifying vital documents for translation in consultation with County departments.
5. Reviewing the policy on an annual basis in consultation with all County points of contact and designated community members.
6. Tracking and Monitoring of Language Access Efforts
 - a) Develop tracking mechanism and review on an annual basis
 - b) Collect data regarding calls for service and contacts requiring an incident report involving LEP persons to include language specific information as well as the use of internal/external language assistance services
 - c) Collection of data indicating the type of service utilized (in person, telephone, or video certified/qualified bilingual personnel)
 - d) Tracking of the number of employees and specific languages of interpreter services offered
 - e) Tracking of challenges securing availability or utilization of interpreter (such as those described in Notification to the Language Access Coordinator below)
 - f) Collect data related to complaints accessing services and resolution
 - g) Utilization of data to seek feedback from staff and community to effectively evaluate and improve language access processes and ensure community needs are met
 - h) Post report including findings on departmental websites

Needs Assessment

It is of paramount importance that all people accessing or engaging in County programs, including LEP persons have the opportunity to participate meaningfully in County programs and activities. Accordingly, the Language Access Plan will exceed the minimum standard of 5 percent or more (see below) by providing interpretation and/or translation services in the following available languages:

- Spanish
- Punjabi
- Hindi
- Tagalog
- Ilocano

The Language Access Services offered for a specific situation will depend on the following:

1. The number and proportion of LEP persons served or encountered in the County. A “substantial number of non-English speaking people” are members who either do not speak English or are unable to effectively communicate in English and who comprise 5 percent or more of the people served by the County.
2. The frequency with which LEP persons come in contact with the County’s programs and activities.
3. The nature and importance of the program or activity provided by the County.
4. The Language Access Coordinator or designee will make the final determination as to what type of Language Access Service is required.

The County will use data from the American Community Survey or data from an equally reliable source to determine which languages meet the requirements of the local jurisdiction.

Notification of Interpretation Services

Many community members with LEP who need an interpreter will not request one for a variety of reasons that could include: because they do not realize interpreters are available or because they do not recognize the level of English proficiency or communication skills needed to understand the information relayed to them regarding services, benefits, or their rights; or out of fear or deference and a desire to avoid inconvenience.

To assist LEP persons, the County of Kern displays messages in public areas in each County location indicating interpreter services are available at no cost. At the main public entry or lobby of each County location, signs shall be posted stating interpreters are available free of charge.

The need for an interpreter may be identified by staff at the time the LEP person seeks program or emergency services or interacts with sworn peace officers.

County employees interacting with members of the public should also proactively ensure that community members with LEP are aware that free language assistance is available and encouraged.

Procedures

Identification of Primary Language and Accessing an Interpreter

If staff have reason to believe that a person has LEP or is Deaf or hard of hearing and will need interpreting services, staff may verify this by asking the client if an interpreter is needed. Once it is established that the client’s language is other than spoken English. The protocols, **in the order listed**, must be followed:

1. Identify the primary language spoken by the person with LEP.
2. The individual with LEP is the only person who should determine if they need an interpreter – under no circumstances should County staff proceed without identifying appropriate interpretation.
3. Direct Communication: Engage in direct in-language communication (i.e., without interpretation or translation between English and the non-English language) with the individual if the employee is: a) certified or qualified bilingual person in the relevant non-English Language; or b) self-identified as proficient in the relevant non-English language. Each

worksite shall maintain separate lists of members who are either certified bilingual or self-identified as proficient in a non-English language. Staff who are not proficient in the relevant non-English language shall use this list to contact staff members who are.

4. Use of Interpreter Services: If the department does not have certified bilingual staff available to assist with interpretation services, staff may utilize one of the following:
 - Language Line Services
 - The Independent Living Center of Kern County
 - Qualified Interpreters identified by County management/supervisors
 - Other qualified providers identified by County management/supervisors
5. Staff should take reasonable steps to ensure that qualified interpreters do not have a conflict of interest between any of the parties.
6. Members of the public seeking services or interaction with **shall not** be advised that services cannot be held in their preferred language. The staff member must ensure interpreting services are available when facilitating services or benefits to persons with LEP.
7. Departments shall have “I speak” cards in the following languages: Spanish, Punjabi, Hindi, Tagalog, Ilocano available to assist LEP individuals in identifying their language access needs at all locations where County residents are expected to interact with the Department on a regular basis. Departments shall also have pre-printed statements in all LEP the language groups, those noted in the needs assessment section, to inform LEP customers that the staff member is arranging language access services.
8. Staff conducting pre-planned or coordinated follow-up interviews with known LEP persons should be prepared for interpreter services either from certified Bilingual staff or external interpreter services.

Limited Circumstances for Temporary Deviation from this Policy

The County will not rely on family members or companions of LEP persons to provide interpretation services unless requested by LEP persons, after being informed of the availability of free Language Access Services, or in exigent circumstances (see below) that are not foreseeable, and in which qualified Language Access Services cannot be timely arranged. The County will not rely on family members or companions of LEP Persons to provide services if use of such individual is inappropriate under the circumstances, including where issues of confidentiality, objectivity, privacy or conflict of interest may arise.

Exigent Circumstances

In an exigent circumstance, staff are to use the most reliable temporary option available. Examples of exigency may include but are not limited to: medical emergencies, situations in which the life or safety of civilians are threatened; the immediate need to obtain descriptive information on an armed or fleeing suspect; or the need to obtain identifying information of an injured person.

Once the exigency has passed and within a reasonable amount of time, staff or supervisors shall obtain language assistance consistent with this policy.

The use of a temporary interpreter, the exigent circumstance that necessitated such use, and the steps made for follow-up interpretation shall be document in the incident report.

Restrictions: Staff should not use family members, friends, volunteers, or bystanders to interpret for a LEP person unless exigent circumstances exist and a more reliable interpreter is not available, especially for communications involving witnesses, victims, and potential suspects, or in investigations, collection of evidence, negotiations, domestic violence circumstances.

Personnel should be aware that using bilingual family members, friends, volunteers, or bystanders to interpret could result in a breach of confidentiality, a conflict of interest, or inadequate interpretation.

Personnel Complaints

Any individual with LEP who wishes to file a complaint about an employee shall be provided with a complaint form and informational materials in the appropriate non-English language and/or be provided appropriate translation and interpretation services from a qualified person to file the complaint. An interpreter not involved in the underlying complaint will be used when taking statements of conducting interviews of any LEP complaint or witness.

Each County site shall have a sign displayed in the lobby area printed in English and other prevalent languages to allow staff to identify which language the complaint materials need to be provided to the LEP individual. In the event an individual with LEP indicates that they cannot read the posted information regarding complaints, staff shall make reasonable efforts to provide appropriate language services from a certified bilingual person.

Translation and Written Language Assistance

Staff and persons with LEP shall have access to translated forms, documents, and other written information as required by law.

- Specific forms, and languages into which they are to be translated, will depend on factors such as frequency and the population of persons served or those likely to be affected (see Needs Assessment above).
- Staff are responsible for ensuring that applicable translated forms and information are provided to persons with LEP.
- Staff shall have access to centralized records and database of all translated forms and documents maintained by their respective department and make efforts to ensure that staff are aware of translated resources.
- County departmental websites will contain information on the availability of free language assistance and points of access.

Prohibition on Machine Translation

Use of machine translation tools (i.e., Google Translate, Babble Fish) is prohibited without review by a qualified translator. Machine translation without qualified human review is insufficient to meet translation standards and risks creating inaccuracies and potentially offensive material. If an exigent circumstance requires translation, staff must seek the assistance of a qualified/certified interpreter to confirm the quality of the translation acquired as soon as practicable.

Training

Training will be provided to all staff regarding language access policies and procedures. Training shall include the following:

- Demographics, including languages spoken
- Department language access resources including list of qualified interpreters on staff
- Language identification tools
- Communicating effectively with a person with LEP using interpreter services (telephone, in person, or video)
- Restricted language access practices and concerns associated with miscommunication or translation
- Interpreter services available and how to access services and work with interpreters
- Vital documents available and where to access forms or documents. Instructions for obtaining or requesting translation of documents
- Instructions for employees to consult the departmental policy for comprehensive guidance on procedures developed to align with departmental requirements

Notification to the Language Access Coordinator

Employees encountering challenges should notify the Language Access Coordinator regarding difficulty securing interpreter services as soon as practicable.

- a) Difficulty securing times of availability with interpreter.
- b) Lack of interpreter services in LEP persons preferred language.
- c) Denial of interpreting services.
- d) LEP person declines services and prefers to utilize their own interpreter. Staff should document the name and relationship of the interpreter to the LEP person. Staff should refer to interdepartmental policy related to appropriate documentation for consent to release information.

Language Access Coordinator: Brenda Guerra, Deputy Chief Human Resources Officer;
(661)868-3926; guerrab@kerncounty.com

Backup Language Access Coordinator: Cassandra Ramirez, Human Resources Analyst;
(661)868-3913; ramirezc@kerncounty.com