

**U.S. DEPARTMENT OF JUSTICE
ENVIRONMENT AND NATURAL RESOURCES DIVISION**

LANGUAGE ACCESS PLAN

JANUARY 2012

The Environment and Natural Resources Division's (ENRD or Division) Language Access Plan has been developed in response to Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, 65 Fed. Reg. 50,121 (Aug. 16, 2000), and consistent with guidance from the Department's Language Access Working Group. This document publicly describes ENRD's Language Access policy.¹

I. POLICY

It is the policy of ENRD that Division staff will take reasonable steps to ensure that limited English proficient (LEP) individuals can meaningfully access the activities and programs conducted by the Division without cost to the LEP individual. This policy is to be carried out through the Plans and Procedures set forth herein.² Where limited English proficiency is a factor in addressing Environmental Justice (EJ) matters, ENRD attorneys will give consideration to the application of Executive Orders 13166 and 12898 in their litigation and settlement of cases.³ (See also [Department of Justice Environmental Justice Strategy](#) and [ENRDNet EJ Homepage](#)).

This policy is intended to govern interactions between Division staff and individual members of the public when:

¹ Specific operational procedures and policy guidelines have been made available to ENRD employees and are detailed in internal Language Access Plan documents.

² This Policy is intended only to guide the internal management of the Environment and Natural Resources Division's (ENRD) Language Access program and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person. Because this document is intended for the internal management of the Division's Language Access program, it is not intended to be cited in any court or litigation proceeding. Administration of the programs discussed herein is within the sole discretion of the Division.

³ Executive Order No. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (issued February 11, 1994), instructs each Federal Agency to "make achieving environmental justice part of its mission." The Order directs the agencies to develop agency-wide environmental justice strategies as a core part of this obligation, and requires that the Department of Justice's strategy address, "as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities" on minority and low-income communities by promoting the enforcement of health and environmental statutes in areas with minority and low-income populations; by ensuring greater public participation in decisions affecting human health and the environment; by improving research and data collection involving human health and the environment; and, by identifying differential patterns of consumption of natural resources. On September 30, 2011, the Department of Justice re-affirmed its Environmental Justice Strategy in light of a recently adopted Memorandum of Understanding on Environmental Justice signed by the Department and multiple federal agencies in August 2011.

- Division staff are working or communicating with individual members of the public directly;
- Individual members of the public are using the Division’s website;
- Individual members of the public are communicating with the Division by telephone; and
- Individual members of the public are using written materials prepared by the Division.

Other categories of individual members of the public may be included on a case-by-case basis. ENRD’s core litigation functions are subject to applicable legal standards that may vary based on pertinent federal local rules. ENRD will necessarily be guided by those legal standards in making decisions regarding interpretation and translation of information described in detail below, and this policy is not intended to supersede or alter those requirements. Furthermore, this document is not designed to address interactions with corporations or business organizations.

Purpose and Authority. In accordance with (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), regulations, and implementing guidance; (b) Executive Order 13166, issued August 2000; and (c) the Attorney General’s June 28, 2010 Memorandum regarding Language Access Obligations Under Executive Order 13166, the purpose of ENRD’s Language Access Plan is to ensure that those in ENRD “who have contact with or serve LEP individuals have the ability to communicate effectively with these individuals.”⁴

Language Assistance Measures. ENRD will ensure that several language assistance measures are available through which staff may communicate effectively with LEP individuals, including bilingual staff who may assist with written or oral communications, as well as translation/interpretation services available from a variety of government and contracted sources. Staff will be provided with specific implementation guidelines and best practices through training and internal procedural documents.

Staff Training. All ENRD staff will be made aware of their language access responsibilities annually. ENRD’s Language Access Plan will be posted on the Division’s intranet, *ENRDNet*, and thus made available for reference.

Definitions.

- *Direct “In Language” Communication* – Monolingual communication in a language other than English between a qualified bilingual representative and an LEP individual (e.g., Spanish to Spanish).
- *Effective Communication* – Communication sufficient to provide the LEP individual with the same level of services received by individuals who are not LEP. Staff must take reasonable steps to ensure communication with an LEP individual is as effective as communications with others when providing similar programs and services.

⁴ Memorandum from Assistant Attorneys General Thomas E. Perez and Lee J. Loftus to Department of Justice Heads (Nov. 17, 2010) re: Creation of the Department of Justice Language Access Working Group.

- Interpretation – the act of listening to a communication in one language (i.e., source language) and orally converting it into another language (i.e., target language), while retaining the same meaning. Interpreting requires specific skill and training and should not be confused with simple bilingualism.
- Limited English Proficiency (LEP) – Individuals who do not speak English or who do not speak English as their primary language and have a limited ability to read, write, speak, or understand English are *Limited English Proficient (LEP)*. Many LEP individuals are in the process of learning English and may read, write, speak, and/or understand some English, but not proficiently. LEP status may be context-specific – an individual may have sufficient English language skills to communicate basic information, such as their name or address, but may not have sufficient skills to communicate detailed information (e.g., medical information, eyewitness accounts, or information elicited in an interrogation) in English.
- Meaningful Access – Language assistance that results in accurate, timely and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals.
- Primary Language – The language in which an individual is most effectively able to communicate.
- Qualified Translator or Interpreter – A translator or interpreter who has demonstrated his or her competence to interpret or translate through court certification, minimum scoring (generally 2 or more) on the Interagency Language Roundtable Score, or other equivalent certification process. Barring exigent circumstances, the Division will not use children, family, friends or bystanders to provide language assistance services.
- Sight Translation – Oral rendering of written text or a document into spoken language by an interpreter without change in meaning based on a visual review of the original text or document.
- Translation – The replacement of written text from one language into an equivalent written text in another language. Like interpretation, translation also requires specialized knowledge and skill.
- Vital Document – Paper or electronic written material that contains information that is critical for accessing the Division’s program or activities and is intended for public outreach and education or is specific to a case or matter, requiring translation in accordance with the law.

II. PLAN

ENRD’s Language Access Plan will be reviewed annually and updated as necessary.

Implementation of the Plan. The Division will have a Language Access Program Coordinator appointed by the Executive Officer and approved by the Assistant Attorney General. The

Language Access Coordinator will serve as Chair of the Division's Language Access Committee and coordinate all implementation activities.

Each ENRD Section with one or more active cases involving direct contact with LEP individuals will have a Section Language Access Coordinator appointed by the Section Chief. When a Section without a Language Access Coordinator receives a case involving direct contact with one or more LEP individuals, the Section Chief immediately will appoint a Section Coordinator and provide that person's name to the Division Coordinator.

ENRD Language Access Program Coordinator (as of January 2012):

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Staff Training. ENRD is committed to improving language access by LEP individuals through periodic annual training of all ENRD staff, particularly staff members who come in contact with LEP individuals. The Division Language Access Coordinator will implement ENRD's annual training program.

Tracking, Reporting, and Performance Measurement. The Division Language Access Coordinator will be responsible for tracking and reporting on ENRD's Language Access Program. Once per quarter, the Division Coordinator will communicate with the Section Coordinators regarding their language access work and will consolidate this information into a report for the Assistant Attorney General.

Vital Documents and Other Outreach Communications. The Division will prioritize translation of vital documents as necessary. Classification of a document as "vital" depends upon the program, information, encounter, or service involved, and the consequence to the LEP individual if the information in question is not provided accurately or in a timely manner. ENRD attorneys or other lead program staff, in consultation with their Section Language Access Coordinators and section managers, will determine which documents or other communications are deemed to be "vital."

Website Translation. Website pages that are translated into non-English languages will clearly point LEP individuals to appropriately translated resources on ENRD's webpage via links in the target language.

Financial and Human Resources. ENRD is assessing whether current resources are adequate to meet the needs and requirements of the language access program.

Procurement of Language Access services, including translation/interpretation services, will be funded through the Division's annual operating funds. The Division's Language Access Coordinator will work with procurement officials to seek cost-effective contracts, blanket purchase agreements and other procurement vehicles to help ensure the success of this program. Additionally, the Division will continue actively to participate in Department-wide efforts enabling smaller components to collectively implement language programs that would be impossible on an individual basis. There may also be opportunities to work with client agencies to secure necessary translation or interpretation services; for example, client agencies' regional offices already may have such resources available and be able to make them available for use in connection with a particular case.

Proposed Mechanism for Public Comment or Feedback. ENRD has a mailbox on its website which is available for public inquiries regarding the Division's language access services.