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Introduction

The rapid growth of immigrant communities is transforming the demography of the United States, making the nation more ethnically and racially diverse. The U.S. Census projects that by 2043, minorities will become the nation's majority population.¹ This is already true in California where 27 percent of the population is foreign-born² and where almost one-third of recent U.S. immigrants reside.³ Language diversity is a prominent feature of this transformation.⁴ Nearly 44 percent of California residents speak a language other than English at home and 6.8 million of these residents have limited-English proficiency.⁵ About 65 percent of these Californians who have limited-English proficiency are Spanish speakers.⁶

Because many immigrants lack proficiency in English, language diversity often creates language barriers. Language barriers can prevent people from fully participating in civic and public life. People whose proficiency in English is limited may not be able to use public services,⁷ communicate their point of view at a town hall meeting or understand information an agency wants the public to know.⁸ California has the country's largest percentage of non-English-language speakers; in some California legislative districts, *most* residents have limited English proficiency.⁹ A state with many limited English-proficient¹⁰ speakers living within its borders may perceive a greater responsibility to provide language access services to its residents.

Enabling people to use their own language when it is feasible helps them access public services.¹¹ For the community, providing language access increases residents' opportunities to communicate with their local leaders and public service providers and ensures the flow of information between public agencies and residents and among residents that is vital to effective community-building.

Under some circumstances, local agencies must ensure that limited English-proficient residents have access to public benefits and services, and an opportunity to participate in public life. This guide explains the laws that require language access.¹²

This Guide Answers These Questions:

- Does a law declaring English to be California's (or a local government's) official language prohibit local agencies from offering services in languages other than English?
- Under federal law, when must local agencies provide language access services?
- Under California law, when must local agencies provide language access services?
- How are other agencies (local, state and federal) providing language access services to their communities?



English as the Official Language and English-Only Laws

Does the fact that English is California's official language prevent a local agency from providing language access services?

No. While article III, section 6 of California's Constitution declares English to be the state's official language -- and while local jurisdictions may have similar official language pronouncements in their charters or ordinances -- local agencies are still permitted to take steps to ensure that limited English-proficient residents have full access to public benefits, services and events.

According to the California Constitution, "English is the official language of the state of California."¹³ This official language provision requires the Legislature to "take all steps necessary to ensure that the role of English as the common language of the State of California is preserved and enhanced."¹⁴ It also allows residents to sue the state to enforce its requirements.¹⁵

This provision does not, however, limit the power of local agencies to provide language access services. Article III section 6 leaves it to the Legislature to enforce its provisions, and the Legislature has not enacted any laws to limit public agencies' authority to offer language access services. The two courts to have considered the issue concluded that this provision does not prohibit agencies from offering language access services. According to the courts, California's official English law is "primarily a symbolic statement concerning the importance of preserving, protecting, and strengthening the English language."¹⁶

In the absence of implementing legislation, California's official English law does not prevent agencies from choosing to provide access to services and programs for limited English-

proficient speakers, or from complying with federal or state laws that mandate language access.¹⁷

Can a local ordinance or charter provision require public business to be conducted only in English?

Probably not. According to the only court to consider the issue directly, English-only laws – laws that prohibit the use of other languages in conducting public agency business – are unconstitutional.¹⁸ Prohibiting public officials or employees from choosing to communicate in languages other than English violates the U.S. Constitution for two reasons:

- It “deprives limited- and non-English-speaking persons of access to information about the government when multilingual access may be available and may be necessary to ensure fair and effective delivery of governmental services to non-English-speaking persons.”¹⁹
- It deprives “elected officials and public employees of the ability to communicate with their constituents and with the public.”²⁰

Furthermore, as discussed in the sections that follow, federal or state law often mandates language access. Federal or state laws mandating language access supersede local ordinances that attempt to prohibit the provision of public services in languages other than English.

If banning the use of other languages is unconstitutional, does this mean that limited English-proficient residents of our community have a constitutional right to language access?

Not necessarily. Courts have consistently rejected the notion that there is a constitutional right to language access.²¹ Neither the U.S. Constitution’s Equal Protection Clause nor the Civil Rights Act of 1964 requires municipalities to provide services in languages other than English.²² The willingness to translate some information or to provide interpreters at some meetings does not create an obligation to translate and interpret in every instance. A public agency’s decision as to whether or how often to provide language access services will be upheld so long as it is rationally related to a legitimate governmental purpose.²³

Intentionally denying access to public services or programs to those who speak a language other than English, however, can be a form of unlawful discrimination. Everyone has the right to be free from discrimination on the basis of race, ethnicity or national origin.²⁴ A policy that intentionally singles out one language group by denying that group language access services that other groups receive could be challenged as violating these principles.²⁵ Or, if an agency knows that it has an obligation to provide language access services under a federal or state statute and intentionally denies those services to a particular group, the agency’s acts could be evidence of intentional and unlawful discrimination.²⁶



Federal Laws Requiring Language Access Services

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color or national origin in any program or activity receiving federal financial assistance.²⁷ Executive Order 13166, issued in 2000, interprets and enforces Title VI. Per the Order, denying limited English-proficient speakers access to federal programs because of their national origin discriminates against them and violates Title VI.²⁸ The Order requires federal agencies and programs receiving federal financial assistance to take reasonable steps to ensure that limited English-proficient speakers have meaningful access to their programs and activities.

To assist Federal agencies in carrying out these responsibilities, the U.S. Department of Justice (DOJ) has issued a Policy Guidance Document, "Enforcement of Title VI of the Civil Rights Act of 1964 - National Origin Discrimination Against Persons With Limited English Proficiency" (2002 LEP Guidance).²⁹ This document describes how recipients of federal funds can satisfy their obligation to provide access for limited English-proficient speakers to access their programs.

What does receiving federal financial assistance signify for a program or activity?

For purposes of Title VI and Executive Order 13166, federal financial assistance refers to financial assistance, including funds, grants, training, use of equipment, donations of surplus property and so on.³⁰ If a recipient passes federal financial assistance on to another entity, Title VI's requirements apply to that entity as well.³¹

Also, if one part of an agency receives federal funds, Title VI's requirements extend to *all* of the agency's operations, including to programs that do not directly receive federal funds.³² Section 2000d-4a of Title VI defines a "program or activity" as all of the operations of:

- A department, agency, special purpose district, or other instrumentality of a state or of a local agency; or
- The entity of such state or local agency that distributes such assistance and each such department or agency (and each other state or local public entity) to which the assistance is extended, in the case of assistance to a state or local agency.³³

For example, if the Department of Housing and Urban Development (HUD) gives a recipient funding for a facility, all of the recipient's programs are covered by Title VI, not just the operations having to do with the funded facility.³⁴ If, however, a granting agency decides to terminate a recipient's funding because reasonable language access services have not been provided, only funds directed to the program that is out of compliance will be affected.³⁵

If an agency receives federal financial assistance, what does Title VI require for it to provide meaningful access to limited English-proficient speakers?

Executive Order 13166 requires recipients of federal funds to "take reasonable steps to ensure meaningful access to programs and activities" by limited English-proficient speakers.³⁶ Meaningful access can take various forms, is not necessarily clear cut and depends on context. For that reason, every federal agency providing federal financial assistance has a guidance document explaining the obligation to provide language access services under its programs.³⁷ To access these documents, along with the text of relevant laws and a clearinghouse for information, tools and technical assistance, visit "Limited English Proficiency: A Federal Interagency Website" (www.lep.gov).

Each agency's guidance document must be consistent with the DOJ's 2002 LEP Guidance, which outlines four factors to help recipients of federal funds determine what is required of them.³⁸ The following discussion, therefore, focuses on the DOJ's four factor test in the guidance document, with occasional examples drawn from other agencies' guides.

According to the Justice Department's LEP Guidance, here are the questions to ask to assess Title VI compliance:

- 1) How many limited English-proficient speakers does the program serve or encounter?
- 2) How often do limited English-proficient speakers come into contact with the program?
- 3) What kind of program, activity or service does the agency provide and how important is it to people's lives?
- 4) How much will it cost to provide language access services and what resources are available to the program?

Taking a Closer Look at Title VI's Four Factors.

1) How many limited English-proficient speakers does the program serve or encounter?

The first step in deciding what language access service to provide is to determine:

- How many of the people a program serves cannot communicate effectively in English.
- What languages those people speak.

The greater the number of limited English-proficient people who speak a particular language, the more an agency must do to provide language access services for that group.³⁹ Past experience can be a guide. An agency should first determine how often limited English-proficient residents have encountered the agency's program in the past, and what kinds of language services they have needed. Next, the agency should look at the population in its service area, as the funding agency defines it.⁴⁰ What matters is the population that might walk in the door. Even in a county or city with relatively few English-proficient residents there may be an obligation to provide language access services in an office or facility that serves a neighborhood where that population is concentrated.

The 2002 LEP guidance suggests several ways to find out about limited English-proficient speakers in an area:

- Look at demographic data from the U.S. Census.
- Look at data gathered by school districts.

- Consult with community organizations and state government resources.⁴¹

The DOJ's LEP website (www.LEP.gov) provides two tools to help access language diversity in each state: demographic data can be found at www.lep.gov/demog_data/demog_data.html and a mapping tool can be found at www.lep.gov/maps/.

2) How often do limited English-proficient speakers come into contact with the program?

The more often limited English-proficient speakers come into contact with a program, the greater the obligation to provide language access services.⁴² The DOJ's 2002 LEP guidance contemplates that recipients of federal financial assistance will accurately assess how frequently their programs encounter limited English-proficient speakers who speak a particular language.⁴³ Tracking the type of encounter involved – telephone, in person, email – can also be an important guide to the kind of language access services that will be most effective.

A low frequency of contact that is due to the failure to provide language access services in the past will not absolve an agency of the obligation to expand services. Agencies are advised to consider how the frequency of contact might increase once language barriers are removed.⁴⁴ Collecting data on instances wherein a member of the public is turned away due to a lack of available language access services is also important for making adjustments in the future.

3) What kind of program, activity or service does the agency provide and how important is it to people's lives?

The more important a service is to people's lives, the greater the obligation to provide language access services.⁴⁵ For programs with life or death implications – such as disaster response or healthcare⁴⁶ – the obligation is strongest. If people are compelled to participate in a program – such as criminal proceedings or education – language access will likely also be viewed as critical.⁴⁷ Similarly, if an application procedure is needed to collect a benefit, language assistance services are important in order to assure that limited English-proficient speakers have equal access as others to the benefit.

Each federal funding agency indicates in its guidance which activities or services it deems critical. The Corporation for National and Community Service, for example, indicates that providing assistance with enrollment in public services and providing access to emergency or medical care are critical services.⁴⁸ Providing equal access to critical services may require agencies to ensure that oral interpreters are immediately available, and agencies providing critical services should give serious consideration to hiring bilingual staff to ensure receipt of services.⁴⁹ By contrast, services that are not so critical would include voluntary general public tours of a public facility.⁵⁰

4) How much will it cost to provide language access services and what resources are available to the recipient agency's program?

Cost is an important factor in determining what types of language access services are reasonable for an agency. If a service's cost greatly outweighs the benefit to be gained, the recipient agency is not expected to provide that service.⁵¹ The DOJ's 2002 LEP Guidance and other agencies' guidance documents recognize that resources may be limited, and that small agencies with limited budgets cannot be expected to provide the same level of service as larger agencies with larger budgets.⁵²

Agencies with limited resources are particularly encouraged to explore cost-saving technologies and resource-sharing arrangements to provide language access services. Funding agencies may be able to provide valuable information on cost-saving measures such as resource sharing and use of the latest technology.⁵³ General information on service providers is available at www.lep.gov/interp_translation/trans_interpret.html. Each funding agency will also have suggestions in its Title VI policy guidance particularly tailored to the kind of services or programs a recipient agency provides. For information regarding technology, see *Communicating More for Less: Using Translation and Interpretation Technology to Serve Limited English Proficient Individuals* (www.migrationpolicy.org/pubs/LEP-translationtechnology.pdf).

Cost saving ideas from the U.S. Department of Justice

- Take advantage of technological advances.
- Share language assistance materials and services with other recipients, advocacy groups and federal grant agencies.
- Train bilingual staff to act as interpreters and translators.
- Use telephonic and video conferencing interpretation services.
- Standardize documents to reduce translation needs.
- Centralize interpreter and translator services to achieve economies of scale.
- Use qualified community volunteers.

Although cost is a legitimate factor to consider, DOJ officials have said that "while recipients may be tempted to assign greater weight to the [cost] factor, they must balance each factor equally."⁵⁴ A claim that scarce resources preclude providing language services must be carefully documented.⁵⁵ "Even in tough economic times, assertions of lack of resources will not provide carte blanche for failure to provide language access. Language access is essential and is not to be treated as a 'frill' when determining what to cut in a budget."⁵⁶

If an agency claims that funds for language services are unavailable due to other agency expenses, the agency will be expected to justify its spending priorities.⁵⁷ There is heightened concern for agencies serving a large limited English-proficient population. Such agencies are

expected to document why costs are an impediment to providing language access, and such claims will need to be “well substantiated,” according to the 2002 LEP Guidance.⁵⁸

Does an agency need to prepare a formal plan assessing the need for language access services and identifying steps to be taken to meet that need?

The DOJ strongly recommends that recipients develop a written plan -- called a Limited English Proficiency (LEP) Plan -- for providing language access services.⁵⁹ Many LEP plans are available online and can provide ideas for best practices (see Appendix A for examples). A written plan can document compliance with the obligation to provide meaningful access for limited English-proficient speakers.⁶⁰ A plan can also provide a framework for offering language access services, thereby guiding efforts to train staff, implement services and control cost.⁶¹ Small agencies, as well as large, can benefit from such a plan even if it simply informs staff about how to contact a telephone translation service.⁶²

The DOJ's 2002 LEP Guidance stops short of requiring every recipient to develop a written plan, recognizing that small agencies with limited staff and a focused mission may not benefit sufficiently from a plan to justify the cost of developing it.⁶³ Other funding agencies, such as the Department of Transportation (DOT), strongly suggest developing an LEP Plan regardless of an agency's size and resources.⁶⁴ DOT emphasizes that “after completing the four-factor analysis and deciding what language assistance services are appropriate, a [DOT] recipient should develop an implementation plan to address the identified needs of the LEP populations it serves.”⁶⁵ Although some DOT recipients such as those “serving very few LEP persons or those with very limited resources may choose not to develop a written LEP plan,” the underlying obligation to provide meaningful access still remains.⁶⁶ DOT suggests that recipients who choose not to develop a LEP Plan “consider alternative ways to reasonably articulate a plan for providing meaningful access.”⁶⁷

If an agency encounters limited English-proficient speakers, what specific language access services must it provide?

Language access services fall into two categories:

- Interpreting services.
- Translation of written documents.

The DOJ's Guidance indicates that “recipients have substantial flexibility in determining the appropriate mix” of language services to provide in light of the four factor test.⁶⁸ If the recipient agency only encounters limited English-speakers sporadically, reasonable assistance can be as simple as using language cards (widely available on the web to identify a language the individual understands and providing staff with access to a telephone interpreting service or a list of community groups that can provide informal interpreters.⁶⁹ When the recipient

agency has more frequent contact with LEP speakers, more may be required of that agency in terms of interpreting and translation.

For interpreting services, agencies have a range of options including:

- Hiring bilingual staff.
- Hiring professional interpreters.
- Contracting with interpreters for services as needed.
- Recruiting volunteer interpreters.
- Contracting for telephonic interpretation services.
- Arranging for local community groups to provide interpreters.⁷⁰

The overriding concern, regardless of what mix of services is used, is the interpreter's competence considering the type of services the agency's program provides.⁷¹ For instance, hospital encounters or legal proceedings will involve the interpretation of technical terms and may have serious consequences that require a certified professional to interpret accurately. Less formal settings may not require a certified interpreter. If an individual prefers to use a family, friend, he or she may be allowed to. However, in many instances such willing helpers may not be competent to interpret correctly and using them could also raise issues of privacy and confidentiality.⁷²

For written translations, the DOJ provides clearer guidance by providing a "safe harbor." The safe harbor provision requires agencies to translate vital documents into a language if the number of limited English-proficient speakers served by the agency who speak that language crosses a specific numerical threshold.⁷³ If the agency complies with the safe harbor provisions, it is considered "strong evidence of compliance with the recipient's written-translation obligations."⁷⁴

To take advantage of the safe harbor provision, an agency should first determine which of its documents are vital. This may be difficult. Not every document that clarifies a program is necessarily critical for ensuring meaningful access. To determine which documents are vital, look to the importance of the program or service and the consequences for the limited English-proficient community that would flow from a failure to translate.⁷⁵ Factors to consider might be:

- Whether the document creates legally enforceable rights or responsibilities (examples include leases, rules of conduct and notices of benefit denials).
- Whether the document solicits important information required to establish or maintain eligibility to participate in a federally-assisted program (examples include applications or certification forms).
- Whether the document itself is a core benefit or service provided by the program.

Next, determine how many of the limited English-proficient speakers the program affects are from a particular language group.⁷⁶ The safe harbor provision requires translating all vital written documents into a language if:

- It is the primary language for more than 1000 limited English-proficient speakers who are eligible for or likely to be affected by the program; or
- It is the primary language for between 50 and 1000 limited English-proficient speakers who are eligible for or likely to be affected by the program, and that number constitutes five percent of the total population the program affects.⁷⁷

If the program affects less than 50 limited English-proficient speakers from a particular language group, there is no obligation to translate documents into that language.⁷⁸ For documents that are not vital, or for language groups that do not meet the numerical threshold, it is sufficient to provide written notice in that group's primary language that limited English-proficient speakers have the right to have an interpreter read the document to them.⁷⁹

Again, competence of the translation is critical for assessing compliance. Although it is not mandatory, it is preferable that professional translators be used, especially for important or sensitive documents.⁸⁰

Keep in mind that the mandate is to provide meaningful access, not just some type of language service. For example, instead of translating application forms, an agency may decide to ask for the information being sought in the forms orally. As an example, several state unemployment insurance programs have transitioned from paper-based application and certification forms to telephone-based systems.⁸¹ Also, some languages – such as Hmong – are oral rather than written.⁸² If many limited English-proficient speakers will likely be unable to read translated documents or written instructions, providing interpreters may be a more effective way to communicate with those individuals.

What are the consequences if an agency fails to comply when federal law requires provision of language access services?

Individuals cannot sue to enforce Title VI unless they can prove intentional discrimination, which may be challenging to do. However, limited English-proficient speakers can submit a complaint to the federal funding agency if the recipient agency does not provide meaningful access to services and programs.⁸³ Federal agencies can initiate an investigation of the recipient agency based upon an individual's complaint, or investigate on their own initiative.⁸⁴ As of 2010, the DOJ increased its efforts to ensure Title VI compliance with language access requirements by opening numerous investigations and has entered into multiple agreements with various agencies.⁸⁵

After attempting to resolve an issue through voluntary and cooperative efforts, the agency granting funds may submit the matter for an administrative hearing and move to cut off funding, or may sue to achieve compliance.⁸⁶ Some investigations, initiated as civil rights complaints, have led to cooperative agreements between the DOJ and local agencies, formalized as memoranda of understanding between the parties.⁸⁷ These agreements generally include timelines to implement language access policies, describe when and how language access will be offered, and how staff will be trained to provide access.⁸⁸ The agreements also include multi-year reporting requirements that allow the DOJ to monitor progress.⁸⁹



California Laws Requiring Language Access Services

Two California laws require local agencies to provide language access services.

- The California Civil Rights Act prohibits discrimination by agencies that receive state funds and requires them to provide equal access to benefits without regard to the beneficiary's race, color, national origin, or ethnic group identification among other factors.⁹⁰
- The Bilingual Services Act (Act)⁹¹ requires local agencies to provide language access services to limited English-proficient speakers.

When does a local agency's failure to provide language access services constitute a form of illegal discrimination?

To not provide language access services may be a form of illegal discrimination. If a local agency receives state funds,⁹² it must "take appropriate steps to ensure that alternative communication services are available to ultimate beneficiaries."⁹³ An agency can meet this obligation by, for example, providing interpreter services, hiring multilingual employees, providing written translations of documents or otherwise.⁹⁴ A recipient can be relieved of the obligation to provide language access services if the state agency providing funds determines it would produce an undue hardship on the recipient.⁹⁵

What are the consequences if an agency receives state funding, but fails to provide language access services?

Failing to provide language access services may have serious consequences. Individuals who are denied access may sue for injunctive relief if they have been harmed.⁹⁶ State funding agencies may also take remedial action by:

- Seeking voluntary cooperation from local agencies.
- Conducting administrative hearings.⁹⁷
- Cutting off state funding if compliance cannot be achieved.⁹⁸

What does an agency need to know about the Bilingual Services Act?

The Bilingual Services Act applies to any “county, city, whether general law or chartered, city and county, town . . . municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.”⁹⁹ School districts, county boards of education, and the office of a county superintendent of schools are not considered local agencies for purposes of the Act.¹⁰⁰

The Act aims to remove language barriers that would otherwise prevent limited English-proficient speakers from accessing state and local programs and services to which they are entitled.¹⁰¹ The California State Auditor has expressed concern in the past that agencies may be unaware of the Act and therefore do not have formal policies for providing language access services to address their clients’ bilingual needs.¹⁰² Additionally, the Auditor’s 2010 survey of administrators and department managers in 25 cities and counties throughout California disclosed that some of these agencies are not fully addressing their clients’ bilingual needs and several of these have not translated materials explaining their services.

When does the Bilingual Services Act require an agency to provide language access services?

Local agencies must provide language access services when they serve a substantial number of non-English speakers. If a local agency serves a substantial number of non-English speakers, the agency must do two things:

- Either employ¹⁰³ enough qualified bilingual speakers in public contact positions or employ enough interpreters to ensure limited English-proficient speakers are provided with benefits and services.¹⁰⁴
- Translate materials explaining the services available to the public into any non-English language spoken by a substantial number of non-English-speaking people, and provide notice in the non-English languages that translations are available.¹⁰⁵

Although California law emphasizes that non-English speakers should have access to public benefits and public services, California law does not require all public business to be conducted in multiple languages.¹⁰⁶ Local agencies have considerable discretion in

implementing language access services.¹⁰⁷ Each local agency, for example, determines for itself:

- Whether it serves a substantial number of non-English speaking people.
- How many bilingual people in contact positions or interpreters it will take to ensure provision of services and information to non-English speakers.¹⁰⁸
- Whether translated materials are necessary.¹⁰⁹

California law prohibits local agencies from dismissing an employee in order to hire bilingual speakers in public contact positions.¹¹⁰ Implementation of the Act's provisions must be achieved "by filling employee public contact positions made vacant by retirement or normal attrition."¹¹¹ Further, any steps taken to implement language access must be permissible under federal law and consistent with applicable provisions of the civil service law.¹¹² Finally, the obligation to implement language access services arises only if funds are available.¹¹³

How can an agency determine whether it "serves a substantial number of non-English-speaking people"?

Local agencies have discretion to determine whether the agency serves a "substantial number of non-English-speaking people."¹¹⁴ For guidance in exercising this discretion, local agencies might look to the Act's requirements for state agencies. State agencies serve "a substantial number of non-English-speakers if 5% of the people they serve belong to a group that does not speak English or cannot communicate effectively in English because it is not their native language." Of course, nothing prevents an agency from providing language access services to groups who do not meet this five percent threshold.¹¹⁵

How can an agency determine whether it should translate materials into other languages?

Again, the statute leaves this to the local agency's discretion. For guidance in exercising this discretion, an agency might look to the requirements for state agencies. If a state agency serves a substantial number of non-English speakers, it must either translate or offer translation services¹¹⁶ for any documents that:

- Solicit information from an individual.
- Provide information to an individual.
- Affect an individual's rights, duties or privileges with regard to the agency's services.¹¹⁷

Must an agency conduct all of its business in multiple languages? For example, does an agency always need to have interpreters at public hearings or board or council meetings?

No, not for all business and not always. However, California law emphasizes that non-English speakers should have access to public benefits and public services. The Legislature's concern in passing the Act, however, was broader communication among residents and government. The Act states:

The effective maintenance and development of a free and democratic society depends on the right and ability of its citizens and residents to communicate with their government and the right and ability of the government to communicate with them.¹¹⁸

The Legislature's intent seems to be for local agencies to take steps to ensure that non-English speakers are taken into account whenever a local agency has contact with the public. To that end, the Legislature created an obligation to provide language access not just for agencies providing direct services and benefits, but for every type of local agency except school districts, county boards of education and other offices at a county superintendent of schools. All local agencies must "ensure provision of information and services in the language of the non-English-speaking person," and "information and services" is defined broadly:

The furnishing of information or rendering of services includes, but is not limited to, providing public safety, protection, or prevention, administering state benefits, implementing public programs, managing public resources or facilities, holding public hearings, and engaging in any other state program or activity that involves public contact.¹¹⁹

While this section of the Act mentions state programs or activities explicitly, the definition applies to the entire chapter, including the sections defining local agencies' obligations. Here, as elsewhere, the Act leaves much to the local agency's discretion.¹²⁰



Public Participation Requirements and Language Access

Many state and federal laws require enhanced public participation for programs and activities. The California Public Utilities Commission (CPUC), which regulates the state's utility services, for example, relies on both of California's major language laws. According to the CPUC's own website, it "strives to provide all members of the public equal access to its services. In compliance with the Dymally-Alatorre Bilingual Services Act and Title VI of The Civil Rights Act of 1964, the CPUC provides verbal interpretation and translation of written materials regarding the CPUC programs and services in non-English languages."¹²¹ In 2015, a new law was passed to amend California's labor code to require that the State's Department of Industrial Relations and the Division of Workers' Compensation, entities that administer the state's workers' compensation system, to make specified forms, notices, and fact sheets available in Chinese, Tagalog, Korean, and Vietnamese aside from Spanish. The law also requires the Administrative Director to make recommendations regarding any other documents that should be translated into languages other than English.¹²²

State agencies may also have internal regulations that require or encourage provision of language access to facilitate public participation.¹²³ For example, the California Natural Resources Agency, which oversees the Environmental Quality Act (CEQA), deems public participation and comment during any environmental review process as an "essential part of the CEQA process."¹²⁴ The CEQA regulations do not mention language access; however, providing language access in some circumstances may be the only way to facilitate public participation.¹²⁵ A community group in Kettleman City, for example, successfully sued Kings County to prevent the construction of a waste disposal facility in an area of a forty percent Latino, limited English-proficient population.¹²⁶ The community group opposed the project, citing health hazards.¹²⁷ They claimed that their ability to participate in the CEQA review process was hampered because the county failed to provide translations of documents, and then refused to allow residents and their interpreters sufficient time and opportunity to speak at the public hearings.¹²⁸ In ruling for the community groups, a California judge stated that, "[the residents'] meaningful involvement in the CEQA review process was effectively precluded by the absence of the Spanish translation."¹²⁹



Selected Local Language Access Policies

Most local agencies have implemented language access ordinances to complement or supplement federal and their respective state's language access policies.¹³⁰ Others have done so due to particular circumstances in their communities. Below is a sample of language access policies found nationwide, in order of adoption, which highlights each policy's notable features. The survey provides local officials with a glimpse of the range of practices that other entities have implemented to address the needs of limited English-proficient residents at the local level. Appendix B provides links to the complete ordinances.

Demographic Features of U.S. Cities with Language Access Policies

<u>City</u> (by order of adoption)	<u>Est. Total Population</u>	<u>Est. Percent Population 5+ years that Speaks a Language Other than English At Home</u>	<u>Est. Percent Population 5+ years that Speaks English Less than Very Well</u>
Oakland, CA	382,120	39.5	20.9
San Francisco, CA	802,640	44.2	21.6
Philadelphia, PA	1,447,361	22.1	10.2
Minneapolis, MN	372,201	21.1	10.3
Monterey Park, CA	58,173	75.9	53.7
New York, NY	7,870,932	49.1	23.1

Washington D.C.	607,051	17	5.4
Seattle, WA	619,012	22.2	8.9
Montgomery County, MD	951,302	39.6	14.4
Suffolk County, NY	1,419,141	22	9.4
Houston, TX	2,045,556	47.1	23.3
Chicago, IL	2,533,99	36.3	15.7
San Jose, CA	933,261	56.6	25.2
Source: U.S. Census, American Community Survey 5-Year Estimates 2011-2015, Language Spoken at Home Tables			

Oakland, CA – City of Oakland Ordinance No. 12324: Equal Access to Services Ordinance Adopted April 26, 2001

Oakland was the first city in the U.S. to implement a language access ordinance.¹³¹ Oakland's ordinance code number 12324 known as the "Equal Access to Services Ordinance" was modeled on San Francisco's 2001 "Equal Access to Services Ordinance" (San Francisco's ordinance was the first drafted but Oakland's was the first implemented). "Two immigrant members of the Oakland City Council, Ignacio de la Fuente and Danny Wan, heard about [San Francisco's effort] and took a personal interest in providing language access protections for their constituents."¹³² Advocates in both cities found it helpful to educate local officials about existing federal and California law to demonstrate that a local ordinance would supplement the efforts of other levels of government.¹³³

Oakland incorporated the wording of California's Bilingual Services Act, but the ordinance's drafters took the responsibility further by providing guidance as to definitions, evaluation, implementation, and compliance. For example, a "substantial number of Limited English-Speaking Persons Group" is specifically defined as "at least 10,000 limited English-speaking city residents who speak a shared language other than English."¹³⁴ Oakland's city planning department must also determine whether a group meets the threshold on an annual basis based on U.S. Census data.¹³⁵

Oakland's ordinance eased implementation difficulties by implementing the services in two phases and dividing the departments required to hire bilingual employees into two tiers.¹³⁶ By listing the specific agencies required to provide language access Oakland reduces doubt and confusion as to which agencies must participate.¹³⁷ There is also a single individual, the city manager, charged with determining the adequacy of services upon review of each department's annual compliance plan, enforcing the provisions of the ordinance and ensuring that each department complies.¹³⁸ The ordinance requires oral interpretation at public meetings and hearings (if requested at least 48 hours in advance) and specifies which documents must be translated for the public.¹³⁹

San Francisco, CA – City and County of San Francisco ordinance No. 27-15: Language Access Ordinance (March 3, 2015) formerly known as ordinance No. 126-01: Equal Access to Services Ordinance Adopted June 15, 2001 and previously amended in August 2009 and renamed.

In 2001, the City of San Francisco's Board of Supervisors (Board) enacted the "Equal Access to Services Ordinance," which required major departments to provide language translation services to individuals with limited English-proficiency who comprised five percent or more of the total city population. The Ordinance intended to implement and supplement California's Bilingual Services Act. Eight years later, the Board found that "differential access to city services still exist[ed] due to significant gaps in language services, lack of protocols for departments to procure language services, [and] low budgetary prioritization by departments for language services."¹⁴⁰ As a result, the ordinance was strengthened and renamed the "Language Access Ordinance"

The Ordinance requires local departments to ensure language access in a variety of ways, including conducting annual language needs assessments through surveys, using written and oral language services including oral interpretation at public meetings and hearings, developing annual compliance plans and allowing persons to file complaints alleging violations of the ordinance. The 2015 revisions increased the Ordinance's requirements for local departments to ensure language access for limited English-proficient persons. For example, all public facing departments must now submit annual compliance plans; create reporting requirements; inform limited English-proficient persons of their rights under the Ordinance; and certain health service-providing departments must develop language services protocols in crisis situations.¹⁴¹

The Office of Civic Engagement & Immigrant Affairs is responsible for monitoring compliance and providing technical assistance to city departments on language access. In addition, San Francisco has an Immigrant Rights Commission, consisting of 15 members of the public, appointed by the Mayor and the San Francisco Board of Supervisors to advise on issues and policies related to immigrants who live or work in San Francisco. The Office of Civic Engagement & Immigrant Affairs and the San Francisco Immigrant Rights Commission work together to advance language access by reviewing complaints, recommending policy changes, identifying new trends and challenges, and identifying best practices.¹⁴² The Immigrant Rights Commission may also hold public hearings to assess the adequacy of the city departments' provision of language services.¹⁴³

San Francisco's Ordinance also requires the City's various offices that support immigrants — Mayor's Office, Immigrant Rights Commission and the Office of Civic Engagement & Immigrant Affairs — to work together to advance language access by working as partners and to keep each other accountable for the obligations outlined in the Ordinance. For example, Tier 1 Directors must file copies of their Annual Compliance Plans with the Mayor's Office, the Commission, and the Office of Civic Engagement and Immigrant Affairs.¹⁴⁴ Additionally, the Office of Civic Engagement and Immigrant Affairs may request a joint public

hearing with the Board of Supervisors and the Immigrant Rights Commission to assess the adequacy of the city's ability to provide the public with access to language services.¹⁴⁵

Philadelphia, PA – City of Philadelphia Executive Order No. 4-01: Access to Federally Funded City Programs and Activities for Individuals with Limited English Proficiency Adopted September 29, 2001 and Executive Order No. 7-16 Citywide Policy on Language Access and The Office of Immigrant Affairs Adopted May 12, 2016 which replaced Executive Order No. 9-08: Access to City Programs and Activities for Individuals with Limited English Proficiency Adopted June 9, 2008 and Rescinded May 12, 2016

The City of Philadelphia has steadily and incrementally increased language accessibility for its limited English-proficient residents. Its initial Executive Order number 4-01 was a reaction to the 2000 Federal Order.¹⁴⁶ Philadelphia acknowledged its immigrant population was growing and indicated that its immigrant residents played an important role in the city.¹⁴⁷ With this initial step, Philadelphia sought to “reduce language barriers . . . preventing its residents with limited English proficiency from meaningfully accessing federally funded city services that are available to all Philadelphians.”¹⁴⁸

Philadelphia’s first Order required “all City departments, boards and commissions . . . [to] take reasonable steps to provide meaningful access to their federally funded programs and activities for persons with limited English proficiency.”¹⁴⁹ These initial steps included:

- Assessments of programs and activities that received federal funding to determine how and to what extent their limited English-proficient residents were prevented from accessing programs and to determine the level of economic resources required to address the needs of the limited English-proficient residents those programs or activities served.
- Using the assessments to develop compliance plans detailing the steps departments would take to ensure that limited English-proficient persons could effectively participate in and benefit from federally assisted programs and activities.¹⁵⁰

In 2008, Philadelphia replaced its first Order with a more comprehensive policy – Executive Order No. 9-08 –, outlining Philadelphia’s evolution “into a regional center of cultural diversity” and the steps leading to its provision of language access services.¹⁵¹ This Order required all city agencies to implement language access plans and protocols to carry out their plans regardless of whether they received federal funding.¹⁵²

Then in 2015, Philadelphia approved an amendment to its Charter that added Section 8-600, requiring all city agencies to prepare and implement Language Access Plans to promote access to city services, compliance with city law and ease of contact with, and participation within, city government for people with limited English-proficiency; and requires that such plans accord with any generally applicable language access policy established by the mayor.

The Charter amendment further requires all city agencies to provide an annual report regarding implementation of their plans to an agency designated by the mayor to assist in the preparation of such plans and to evaluate agency compliance with their plans.¹⁵³

In May of 2016, with the signing of Executive Order 7-16, Philadelphia Mayor Jim Kenney launched Language Access Philly, a city-wide program designed to bridge the access gap by making it easier for residents with limited English-proficiency to obtain essential public information and services. Language Access Philly establishes a system to implement Philadelphia Home Rule Charter (new Charter Section 8-600) per Executive Order 7-16.¹⁵⁴

Minneapolis, MN – City of Minneapolis Resolution 2003-R547: Approving the Creation of a Limited English Proficient (LEP) Plan Adopted November, 2003 and Minneapolis City of Lakes 2015 Language Access Plan Adopted November 2015

The City of Minneapolis was also motivated to implement an ordinance in reaction to the DOJ's guidelines regarding compliance with Title VI and also to better integrate the increasing foreign-born population.¹⁵⁵ In August 2000, Minneapolis's Interdepartmental New Arrivals Work Group issued a report entitled "Welcoming New Arrivals to Minneapolis: Issues and Recommendations."¹⁵⁶ In response to a question in the report about what staff had done to overcome language barriers, the most common response (47 percent) was "Use client's friends/family members as interpreters." To make further progress on the area of language access, the city resolved to:

- Provide quick, convenient and effective interpreting and translation services.
- Train staff on culture and language.
- Identify and develop relationships with individuals and organizations in new arrival communities.
- Hire more bilingual and bicultural staff.¹⁵⁷

Minneapolis also resolved to have key departments "work together to train all city staff that have contact with LEP persons in how to provide meaningful language access."¹⁵⁸

"Meaningful access" includes measures such as: "creating, monitoring, and updating an LEP plan; identifying and tracking language preferences of people using or potentially using city services; interpreting by interpreters with proven competency, provided by the city; translating vital written documents provided by the city; providing notice to LEP persons of the free services available; and training staff in language access issues and procedures."¹⁵⁹

By including limited English-proficient persons in creating the language services compliance plans, Minneapolis demonstrated its commitment to creating a comprehensive plan that included all constituents of the community.¹⁶⁰ Minneapolis is strongly committed to making city services and information about those services available to everyone, regardless of

language barriers.¹⁶¹ This commitment stems from overall city goals of responsive public agencies, community engagement and customer service.

“As residents, workers or visitors who contribute to city life, people with limited English proficiency (LEP) are entitled to fair and equal access to service.”¹⁶² After months of “planning, consultation and review of legal mandates and LEP plans created by other cities and counties,” in November 2004, Minneapolis introduced its Limited English Proficiency (LEP) Plan “to give specific direction to staff about how to make city services accessible to those who speak limited English.”¹⁶³

In December of 2015, Minneapolis updated its LEP Plan, a resource document for the City of Minneapolis’ departments, staff, elected officials and contracted vendors (See Appendix B).¹⁶⁴ The 2015 Language Access Plan contains policies, procedures and practices to better communicate with and serve residents with limited English-proficiency. It also includes both the federally mandated LEP requirements and Minneapolis’ initiatives to increase language access, services, engagement and participation.¹⁶⁵

Monterey Park, CA – City of Monterey Park Administrative Policy 10-35: Multilingual City Services Adopted December 18, 2003

Monterey Park did not necessarily base its ordinance on California law nor was it a reaction to federal law.¹⁶⁶ Instead, in 2003 Monterey Park implemented innovative measures to ensure that its remarkably diverse residents have adequate language access based on a recommendation from a report seeking ways to improve outreach to the city’s non-English speaking residents.¹⁶⁷

To ensure that residents and others are better able to participate in local governance and utilize city programs and services regardless of their proficiency in English, Monterey Park implements inexpensive yet effective practices to provide language access services. For example, to provide translation of documents and correspondence, Policy 10-35 provides:

- “A Volunteer Translators and Interpreters Program will be maintained to assist with the translation of various city brochures, applications, and press releases into appropriate languages. This program will consist of residents, business operators and other interested individuals who are certified as bilingual to ensure their competency in translating complex documents.”
- “Depending on the timing, complexity and availability of the Volunteer Translator and Interpreters Program volunteers, the city shall contract for services of local businesses that provide translation and typesetting services in languages other than English for use in translating and printing city materials, press releases and brochures that will supplement the effort to communicate governmental services and programs.”¹⁶⁸

Monterey Park also takes the following steps:

- Provides a “Language Identification Card” that allows individuals to identify their native tongue that is available at all public counters and issued to all field personnel.¹⁶⁹
- Takes additional steps to distribute the “Language Identification Cards,” including mailing one to each city household as an insert in the water bill on a biennial basis and sending the cards as part of the new resident packages.¹⁷⁰
- Makes public building signage as universally understandable as possible including:
 - Using international symbols on all restrooms at public facilities.¹⁷¹
 - Placing identifying signs (for example, those labeling agency departments over counters, such as building, human resources, etc.) in dominant languages (for Monterey Park, Chinese and Spanish) as well as English.¹⁷²

New York, NY – City of New York Local Law 73: Equal Access to Human Services Adopted December 22, 2003 and City of New York Executive Order 120: Citywide Policy on Language Access to Ensure the Effective Delivery of City Services Adopted July 22, 2008

The City of New York (New York), adopted its “Equal Access to Human Services Act of 2003” to comply with Title VI.¹⁷³ New York requires its agencies to provide various interpretation and translation services promptly “by ensuring that limited English-proficient speakers do not have to wait unreasonably longer to receive assistance than individuals who do not require language assistance services.”¹⁷⁴

In July 2008, Mayor Bloomberg implemented a new policy to improve existing language access services.¹⁷⁵ In doing so, the mayor ordered that all city agencies that provide direct public services to develop plans based on the guidance provided by the DOJ in 2002 and to designate a language access coordinator to oversee the creation and implementation of their plans.¹⁷⁶ Additionally, unlike other cities, New York requires its agencies to “provide services in languages based on at least the top six LEP languages spoken by the population of New York City.”¹⁷⁷

Washington, DC – Language Access Act of 2004

Like California, the District of Columbia has a long history of providing language access to its residents, commencing with its Bilingual Services Translation Act of 1977. In 2004, the District of Columbia repealed the 1977 Act to implement the Language Access Act of 2004 in order to update and enhance its existing language access services.¹⁷⁸ The Language Access Act aimed to provide greater access and participation in public services, programs and activities for residents of the District of Columbia with limited English-proficiency by requiring that local agencies assess the need for, and offer, oral language services; and provide written translations of documents.¹⁷⁹

The Act aimed to ensure that District agencies with major public contact establish and implement a language access plan and designate a language access coordinator. It also

requires the District's Office of Human Rights coordinate and supervise District agencies in complying with the Act's provisions and establish the position of Language Access Director for this purpose.¹⁸⁰

A unique aspect of the District of Columbia's Act is that it has one of the lowest thresholds for providing language access services. It requires language services to be provided in "any non-English language spoken by a limited or no-English proficient population that constitutes 3% or 500 individuals, whichever is less, of the population served or encountered, or likely to be served or encountered."¹⁸¹

Seattle, WA – City of Seattle Executive Order-01-07: City-wide Translation and Interpretation Policy Adopted January 31, 2007

The City of Seattle does not attribute its ordinance as a reaction to federal or state law. In 2007, Seattle established its Translation and Interpretation Policy as part of its Immigrant and Refugee Initiative with the goal to promote fair and equitable access to city services for individuals with limited English-proficiency. Since that time, the initiative has been adopted by all the departments of the city.¹⁸² This short and simple ordinance emphasizes services relating to community engagement. Departments must:

- Translate documents when conducting major projects in neighborhoods where five percent or more of the population consists of a specific language group.¹⁸³
- Provide interpreters in these languages at neighborhood specific events conducted by city departments.¹⁸⁴
- Make every effort to provide interpreters at community meetings organized by the city.¹⁸⁵

To ensure residents obtain qualified interpretation and translation services, Seattle manages its own Language Bank that contains contact information for certified interpreters under contract with the city.¹⁸⁶ All departments must use the City Language Bank to locate interpreters and/or telephone service providers to assist and inform residents about city services.¹⁸⁷ Seattle also "provides service and community information in 20 languages throughout the Seattle.Gov web site The links to service and community information go to the web sites for various city departments. Many of the links go directly to PDF documents The information on these pages is presented in translations of the various languages."¹⁸⁸

Since then Seattle has taken additional steps to ensure language access to its residents. On September 12, 2011, Seattle adopted a resolution authorizing the Seattle Office of Civil Rights to determine how to best use the city's existing investments in translation and interpretation to support the overall goal of improving outreach to its immigrant and refugee communities.¹⁸⁹

Montgomery County, MD – Montgomery County Executive Order 046-10: Access to Government Services for Individuals with Limited English Proficiency Adopted March 4, 2010

In 2002, Montgomery County adopted the DOJ's 2002 guidelines and then in May 2003, the County's Executive Branch adopted an LEP Policy, requiring that local agencies take reasonable steps to provide equal access to public services for persons with limited English-proficiency. In September 2004, the County's Office of Legislative Oversight released "Limited English Proficient Persons: Access to County Government Services," a comprehensive report focused on LEP access to emergency public safety and health and human services and included recommendations to the County Council for improving LEP policy and implementation.¹⁹⁰

These recommendations resulted in Executive Order 046-10, which requires all local agencies that provide direct public services, regardless of whether they are recipients of federal financial support, to take reasonable steps to develop and implement plans for removing language barriers for LEP individuals. This Order also requires that the local agencies have a Department Liaison to oversee the development and execution of a department-specific Language Access Plan and to ensure the department's compliance with the local language access policy and to provide both policy directive and the necessary protocols, based on the DOJ's four-factor analysis.¹⁹¹

In order to improve language accessibility through LEP initiatives and English learning in Montgomery County, the Executive Order required that the Office of the Chief Administrative Officer, the lead agency for language access, collaborate with other public institutions and seek to establish a Language Access Council to include representatives from an array of local boards and commissions, including the Housing Opportunities Commission, Board of Elections, the Planning Commission, Montgomery College, Montgomery County Public Schools and Washington Suburban Sanitary Commission.¹⁹²

Suffolk County, NY – Suffolk County Executive Order 10 Adopted November 14, 2012

Suffolk County is one of few U.S. counties that has a language access policy. The county established its policy "to effectively communicate with all residents in recovery and relief efforts following super-storm Sandy" and is "an effort to prevent costly and dangerous misunderstandings between limited-English proficient (LEP) residents—who comprise approximately 10 percent of Suffolk County's population—and government officials."¹⁹³

Among other things, the county requires that all local agencies translate essential public documents and forms into the top six languages spoken by LEP residents of Suffolk County; provide interpretation services to all LEP Suffolk residents; and to provide the county executive's office with annual reports detailing their compliance with the Executive Order.¹⁹⁴ According to local leaders, "...providing language access services is an essential

good government tool” and “Superstorm Sandy is the most recent example of why adequate communication between governments and constituents is so important.”¹⁹⁵

Houston, TX – City of Houston Executive Order 1-17 Adopted July 31, 2013

In July 2013, through Executive Order 1-17, the City of Houston mandated local agencies to translate “essential public information” into the five most commonly-used languages other than English “utilized by the City’s culturally diverse population.”¹⁹⁶ It also requires all city agencies to implement agency-specific language access plans for which they will receive technical assistance and resources from the Mayor’s Office. An example of one of these is the Language Access Plan of the Office of the City Secretary published in January 2014.¹⁹⁷

Additionally, city employees who routinely have direct, substantive interaction with the public shall be trained in language access policies and procedures that shall include protocols for assisting LEP populations.¹⁹⁸ The Order recognizes that Houston is “an international city of commerce, culture, trade, travel, and tourism” and that “over 100 different languages are spoken in Houston’s neighborhoods.”¹⁹⁹ Because of these characteristics, the Order seeks to ensure that not only residents, but also visitors, regardless of their proficiency level in English, have access to essential public information about city programs, services and activities.²⁰⁰

Chicago, IL – City of Chicago Municipal Code Chapter 2-40: Citywide Language Access to Ensure the Effective Delivery of City Services Adopted May 6, 2015

The City of Chicago implemented its language access policy to comply with Title VI of the Civil Rights Act and due to recommendations provided by a language access working group composed of community leaders. The working group’s recommendations became the basis for the city’s language access policy.²⁰¹ Chapter 2-40 calls for all city agencies to develop and implement department-specific language access plans that comport with the DOJ’s four-factor test and to designate a language access coordinator to oversee the creation and execution of the policy and implementation plan.²⁰² Language access services are to be provided in any non-English language spoken by a population that constitutes five percent or 10,000 individuals, whichever is less.²⁰³

The language access policy and implementation plans must include the identification and translation of essential public documents; interpretation services, including the use of telephonic interpretation services; training of frontline workers and managers on language access policies and procedures; posting of signage in conspicuous locations about the availability of free interpretation services; the establishment of an appropriate monitoring and measurement system regarding the provision of department language services; and the creation of appropriate public awareness strategies for the department’s service populations.²⁰⁴

Chicago's policy has several unique features regarding the required language access plans. First, is the requirement that the plans include provisions for addressing the needs of emerging populations with high rates of limited English-proficiency not reaching the policy's five percent or 10,000 thresholds.²⁰⁵ The plans must also use of plain language. "For example, signs and flyers shall be easy to understand, and not include arcane or technical language, unnecessary polysyllabic words, legal jargon or other text requiring an advanced reading level."²⁰⁶ Additionally, to further the city's commitment to providing effective language assistance and incorporating the public in the process, local agencies must create procedures for the community to comment on the language assistance offered or provided to them by the department, such as comments on the type, effectiveness, or quality of language assistance made available. The comments may be collected through a variety of methods, such as, in-person interaction, telephone, a hotline developed for this purpose, or a form, made available in hard copy and online.²⁰⁷ Finally, the policy makes explicit that the new Chapter does not create a private right of action.²⁰⁸

Aside from the plans, the language access policy requires the mayor to appoint a Language Access Advisory Committee tasked with advising regarding an annual compliance report, the community comment process, and the development of an implementation plan for the city's Language Access Ordinance that can be used for connecting Chicago's LEP residents to services, programs, and benefits.²⁰⁹

San José, CA – City of San Jose Language Access Policy 6.1.10 Adopted November 10, 2016

In November 2016, the City of San José established its Language Access Policy that is found in the City's Policy Manual located at www.sanjoseca.gov/DocumentCenter/View/62440.²¹⁰ This policy helps ensure that the city's agencies reduce language barriers to accessing city programs or services. Two city departments, housing and police, had previously implemented their own departmental language access policies.²¹¹ However, because the demographic profile of the community continued to evolve to include a higher proportion of immigrants and other residents who have limited English-proficiency, the city took a more comprehensive approach to language access. In fact, at least one in four San José residents is considered LEP.²¹²

San Jose has determined that the new policy will serve to keep language access as a deliberate goal while departments determine priorities and the need for appropriate resources in the future. As such, San José considers this policy a first step in a long-term citywide effort to improve language access.²¹³ At the same time, the Office of Immigrant Affairs has developed the three-year immigrant integration plan, known as the Welcoming San José Plan, which includes developing a plan to operationalize the Language Access Policy through a phased approach over three years.²¹⁴

The policy encourages departments to take proactive steps to make sure that employees are aware of available language assistance services; understand the needs and expectations of

specific audiences; plan accordingly for appropriate translation or interpretation services; develop a strategy for translating documents, materials, and web-based information to achieve high-return priorities; and inform the public of the availability of these services. Similar to other LEP policies, San José's does not mandate specific approaches to language access. It serves as a framework to guide and support agencies as they plan, develop, use, and budget for appropriate language access services.²¹⁵ It also encourages departments to take steps to ensure appropriate quality of translations so that materials are effective and accurate for the intended audiences. The policy also calls for the periodic review and update of the policy and departmental plans to reflect changes in the community and in city operations, and to incorporate lessons learned from experience with implementation of the language access policy.²¹⁶

San José developed the policy after a 2014 audit of services noted, among other things, that some departments were not aware of the availability of translation services that the city already has available or purchased. The audit therefore recommended the development of a citywide language access policy to address the challenge of making city services more accessible to all residents. Various stakeholders were involved with the development of the policy. Additionally, language access models from the City and County of San Francisco, San Francisco Public Utilities Commission, the DOJ, and Access Services Los Angeles County were used to help guide the preparation of the San José policy.²¹⁷



Tips for Providing Language Access Services

Ensure Effective Language Access Coordination and Accountability

- Ensure that local agency departments are aware of existing language access services and resources.
- Appoint a coordinator or, in larger agencies, a working group of individuals from different components to monitor/update the agency's response to the needs of limited English-proficient service-users.
- Consider developing policies that clarify the agencies' responsibilities for providing language access services.
- Monitor agency compliance to ensure staff cooperation and accountability.
- Conduct regular trainings about language access to ensure that all staff,

Tips for Local Agencies from the Bureau of State Audits

The Bureau of State Audits has compiled two reports assessing state and local compliance with the Bilingual Standards Act. Based on their reviews, the Bureau has identified these steps to ensure client needs for bilingual services are identified and addressed adequately:

- Use formal procedures to identify languages clients speak and assess the sufficiency of existing bilingual resources regularly.
- Translate materials explaining services into languages spoken by a substantial number of LEP clients.
- Develop policies that clarify local agencies' responsibilities for providing bilingual services.
- Encourage local departments to consider using state California Multiple Award Schedules (CMAS) contracts to obtain bilingual services whenever cost-effective. (See endnote # 178)

especially those who frequently encounter the public, are aware of the agency's policies.

Conduct an Effective Needs Assessment

- Survey clients and chart their needs.
- Track encounters with limited English-proficient service-users.
- Obtain LEP. service-user feedback via surveys or other methods.
- Use the information obtained to target language access efforts to priority services and locations.
- Use formal procedures to regularly identify the languages that residents speak and to assess the sufficiency of their language access resources to meet their needs.
- Consider establishing feedback processes through which the public can report the absence of language access services or resources.

Ensure Reliable Access to Disaster and Emergency Preparedness Information

- Prioritize translation services for disaster and emergency preparedness resources and information.

Use and Maximize Existing Resources

- Leverage existing contracts with other departments through such programs as the CMAS.²¹⁸
- Share resources within and across agencies; such as regional and interagency partnerships.
- Use bilingual employees effectively and appropriately. Avoid assumptions about competence and willingness of bilingual staff to provide language services. Once an agency has identified competent and willing bilingual staff, ensure that they are strategically posted.
- Leverage community-based organizations for interpretation and translation assistance, provided that quality control procedures are used.

Provide Meaningful Access to Web-Based Information

- Web pages may be a helpful, less intrusive tool to provide information about services and programs available to limited English-proficient service-users. Allowing limited English-proficient service-users to obtain information via the internet can ease fears of immigrant residents who may not feel comfortable seeking services in person.
- Non-English language web pages should be easy to locate and navigate. These web pages should serve as a "one-stop shop" for agency information.

- Web pages should be available in as many languages as possible, especially those spoken by substantial numbers of residents in the community.
- It is important to note that automatic translations through web-based services will usually not be 100 percent accurate.

Consistently Enforce Quality Control Standards

- Follow the suggestions above related to ensuring competence of bilingual staff, interpreters and translators; accuracy of web-based information and translations in non-English languages; and reliance on service-user feedback.
- Avoid ad hoc approaches when engaging limited English-proficient service-users by ensuring staff familiarity with an agency's Limited English Proficient Plan.
- Avoid relying on a limited English-proficient individual's family and/or friends for interpretation and translation, whether on an ad hoc basis or as part of the agency's general language assistance strategy. Generally, family and friends should not be used for language assistance, except in certain emergency situations while awaiting a qualified interpreter, or where the information to be conveyed is of minimal importance to the limited English-proficient individual.

Establish and Maintain Community Partnerships

- Seek and enlist the cooperation of community and ethnic organizations for interpretation and translation assistance, for example, to review translations and non-English web pages for accuracy and tone. Attempt to use quality control measures when using the services of external organizations.
- Community organizations can help local agencies determine their language access priorities by identifying the public services and information most frequently accessed or "in demand" by various language communities.
- Community organizations can help agencies assess the effectiveness of their language access plan by providing ongoing feedback.
- Community organizations can be a source of "good publicity" for agency language access efforts by informing limited English-proficient community members of agency services and the manner in which said agency is striving to meet the needs of limited English-proficient residents.

Market Language Access Programs

- In order to access services, limited English-proficient speakers must know about them. It is helpful to market language access programs to target communities.
- Attend seminars, symposia and community health fairs, and inform ethnic media and culturally diverse media outlets of an agency's commitment to language access.

Demonstrate Importance and Effectiveness of Language Access Services

- Connect language access efforts to the larger mission and goals of the local agency and its departments.
- Maintain a record of all limited English-proficient service-users.

Links to Helpful Resources

The **U.S. Department of Justice** provides text of relevant laws and a clearinghouse for information, tools and technical assistance and can be accessed at “Limited English Proficiency: A Federal Interagency Website” that can be accessed here: www.lep.gov.

The **U.S. Department of Justice** also provides a variety of federal agency LEP Guidance documents sources to guide federal agencies in the implementation of LEP and language access plans that can also be helpful for local agencies and can be accessed here: www.justice.gov/crt/lep/guidance/guidance_index.html.

Other language access strategies used by **federal agencies** can be accessed here: www.lep.gov/resources/2008_Conference_Materials/TopTips.pdf.

Prepared **Remarks of Acting Assistant Attorney General Loretta King** at the April 20, 2009 meeting of the Federal Interagency Working Group on Limited English Proficiency, Office of Justice Programs can be accessed at: www.lep.gov/Kingremarks4_20_09.pdf.

The California Department of Human Resources provides links to various sources and can be accessed at: www.calhr.ca.gov/state-hr-professionals/pages/bilingual-services.aspx.

California's State Auditor provides insight and recommendations based on audits issued during 1999, 2009 and 2010 assessing local agencies' compliance of the Bilingual Services Act that can be accessed at: www.bsa.ca.gov/reports/agency/26.

The **Migration Policy Institute's Language Access Portal** provides a wide range of information regarding language access and can be accessed at: www.migrationpolicy.org/topics/language-access.

For information regarding technology, see the report, ***Communicating More for Less: Using Translation and Interpretation Technology to Serve Limited English Proficient Individuals***. It provides an overview of several commonly used translation and interpretation technologies. The paper, authored by Jessica Sperling, can be accessed at: www.migrationpolicy.org/pubs/LEP-translationtechnology.pdf.

Institute for Local Government Resources Available in Spanish

- [Land Use Decisions One-Pagers](#)
- [Financial Management for Elected Officials: Questions to Ask \(2013 version\)](#)
- [Understanding the Basics of County and City Revenues \(2013 version\)](#)

Appendix A

Limited English Proficiency Plans

[City of Minneapolis Language Access Plan](#)

[Hennepin County LEP Plan](#)

[Butte County Association of Governments LEP Plan](#)

[Livermore Amador Valley Transit Authority LEP Plan](#)

[Superior Court of Los Angeles County LEP Plan](#)

[Superior Court of California County of Napa LEP Plan](#)

[Superior Court of San Mateo County LEP Plan](#)

[Superior Court of Yolo County LEP Plan.](#)

Appendix B

Selected Local Language Access Policies

[City of Oakland Ordinance No. 12324 \(2001\)](#)

[City and County of San Francisco ordinance No. 126-01 \(2001\)](#)
and [San Francisco Ordinance 202-09 \(2009\)](#) and [San Francisco Ordinance 27-15 \(2015\)](#)

[City of Philadelphia Executive Order No. 4-01 \(2001\)](#) and
[City of Philadelphia Executive Order No. 7-16 \(2016\)](#)

[City of Minneapolis Resolution 2003-R547 \(2003\)](#).

[City of Monterey Park Administrative Policy 10-35 \(2003\)](#)

[City of New York Local Law 73 \(2003\)](#) and [City of New York Executive Order 120 \(2008\)](#)

[Washington, D.C. Language Access Act \(2004\)](#)

[City of Seattle Executive Order-01-07 \(2007\)](#).

[Montgomery County, Maryland Executive Order 046-10 \(2010\)](#)

[Suffolk County, NY Executive Order 10 \(2012\)](#)

[Houston Executive Order 1-17 \(2013\)](#)

[Chicago Municipal Code Chapter 2-40: Citywide Language Access to Ensure the Effective Delivery of City Services \(2015\)](#)

[City of San Jose Language Access Policy 6.1.10 \(2016\)](#)

Endnotes

- ¹ Sandra L. Colby and Jennifer M. Ortman, *The Baby Boom Cohort in the United States: 2012 to 2060, Population Estimates and Projections* (May 2014) available at <http://www.census.gov/content/dam/Census/library/publications/2014/demo/p25-1141.pdf>
- ² U.S. Census, *California QuickFacts for 2011-2015* available at <http://www.census.gov/quickfacts/table/POP645215/06>
- ³ Daniel K. Ichinose et al., *California Speaks: Language Diversity and English Proficiency* by Legislative District 2 (2005).
- ⁴ Muneer I. Ahmad, *Interpreting Communities: Lawyering Across Language Differences*, 54 UCLA L. Rev., 999 (2007).
- ⁵ U.S. Census, *American Community Survey 5-Year Estimates 2011-2015, California, Language Spoken at Home Tables* available at <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkml>.
- ⁶ *Id.*
- ⁷ See Eerik Lagerspetz, *Ethical Theory and Moral Practice: On Language Rights* 198 (1998); Ahmad, *supra* note 2, at 999.
- ⁸ Hyon B. Shin & Robert A. Kominski, *American Community Survey Reports: Language Use in the United States 2007* 9 (April 2010) (explaining that ability to speak English greatly affects how well people can perform daily activities at home and outside the home); Mexican American Legal Defense & Education Fund (MALDEF) & Asian American Justice Center (AAJC), *Language Rights: An Integration Agenda for Immigrant Communities* 4 (Nov. 2007) (explaining that English proficiency may indicate how well persons communicate with public officials, schools, businesses, medical personnel, and various other service providers).
- ⁹ Shin & Kominski, *supra* note 4, at 6.
- ¹⁰ The U.S. Census Bureau defines limited English-proficient (LEP) speakers as those who speak English less than very well (see U.S. Census Bureau, *A Compass for Understanding and Using American Community Survey Data: What State and Local Governments Need to Know* 12 n.8 (2009)). The Justice Department defines limited English-proficient speakers as individuals who primarily speak a language other than English and who have a limited ability to read, speak, write, or understand English (see U.S. Dep't of Justice, *Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency: Policy Guidance*, 65 Fed. Reg. 50123 (Aug. 16, 2000)).
- ¹¹ See Lagerspetz, *supra* note 3, at 198; Ahmad, *supra* note 2, at 999.
- ¹² The use of the term “agency” throughout this paper refers to a local public agency like a city or county.
- ¹³ Cal. Const. art. III § 6(b).
- ¹⁴ *Id.* at § 6(c).
- ¹⁵ *Id.* at § 6(d).
- ¹⁶ *Gutierrez v. Municipal Court of the Southeast Judicial Dist.*, 838 F.2d 1031, 1043 (9th Cir. 1988), vacated as moot, 490 U.S. 1016 (1989) (California’s declaration that English is the state’s official language could not be used to justify a rule prohibiting court employees from speaking Spanish on the job); *Levy v. Davis*, No. A098306, 2003 WL 157555, *2 (Cal. Ct. App. 2003) (unpublished opinion) (State Bar may voluntarily distribute consumer materials in languages other than English without violating the constitution’s official language provision).
- ¹⁷ *Levy* at *4.
- ¹⁸ *Ruiz v. Hull*, 191 Ariz. 441, 957 P.2d 984 (Ariz. 1998) (Arizona’s constitutional provision banning the use of languages other than English in providing government services violates the First Amendment rights of non-English speakers who are seeking access to government and unconstitutionally limits the political speech rights of government officials and public employees); *Yniguez v. Arizonans for Official English*, 69 F.3d 920, 924 (9th Cir. 1995) (en banc), vacated as moot sub nom; *Arizonans for Official English v. Arizona*, 520 U.S. 43, 117 S.Ct. 1055, 137 L.Ed.2d 170 (1997) (same); see also *Gutierrez* at 1044 n.18, vacated as moot, 490 U.S. 1016 (1989) (noting that a strict ban on language access services could raise due process and “other constitutional questions”). State courts have also found statutes prohibiting the use of languages other than English to violate state constitutions. See *Alaskans for a Common Language, Inc. v. Kritz*, 170 P.3d 183, 206 (Alaska 2007); *In re Initiative Petition No. 366*, 46 P.3d 123 (Okla. 2002). *Cf. Alvarez v. Utah*, No. 000909680 (Dist. Ct. 2001) (upholding

Utah's official English measure, but clarifying that "government officials and employees are free to communicate with clients and constituents in any language").

¹⁹Ruiz at 998.

²⁰*Id.*

²¹*See e.g.*, *Guadalupe Org. Inc. v. Tempe Elementary School Dist. No. 3*, 587 F.2d 1022 (9th Cir. 1978) (no constitutional right to bilingual education); *Carmona v. Sheffield*, 475 F.2d 738 (9th Cir. 1973) (no constitutional right to employment notices in Spanish).

²²*Guerrero v. Carleson*, 9 Cal. 3d 808, 109 Cal. Rptr. 201, 512 P.2d 833 (1973) (the Constitution's due process clause does not require that a notice of termination of welfare benefits be sent in Spanish, even if the welfare agency is aware that the recipient does not read or speak English). *See also* Ruiz at 1002 ("We do not hold, or even suggest, that any governmental entity in Arizona has a constitutional obligation to provide services in languages other than English."); *Alaskans for a Common Language* at 201 ("we are only considering the interest of the public in receiving speech when government employees exercise their right to utter such speech, and we do not create an independently enforceable public right to receive information in another language.").

²³*Moua v. City of Chico*, 324 F.Supp.2d 1132 (E.D. Ca. 2004) (City had no constitutional obligation to provide an interpreter when an initial police complaint was filed.).

²⁴U.S. Const. amend. XIV, § 2 (Equal Protection Clause of the Fourteenth Amendment prohibits governmental discrimination on the basis of an individual's race, ancestry, national origin, or ethnicity).

²⁵*See e.g.* *Moua* at 1139.

²⁶*Almendares v. Palmer*, 284 F.Supp.2d 799 (N.D. Ohio 2003) (Spanish-speaking food stamp recipients' allegations that state agency knew recipients were being harmed by its failure to provide bilingual services was at least some evidence of intentional discrimination).

²⁷42 U.S.C § 2000d.

²⁸Executive Order 13166, reprinted at 65 Fed. Reg. 50121 (Aug. 16, 2001). The final version was published on June 18, 2002.

²⁹Justice Department, *Guidance to Federal Financial Assistance Recipient Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 67 Fed. Reg. 41455 (June 18, 2002). Available at <https://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf>

³⁰HUD, *Guidance to Federal Financial Assistance Recipient Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 72 FR 2732, 2738 (Jan. 22, 2007), *available at* http://www.lep.gov/guidance/HUD_guidance_Jan07.pdf; Justice Department, *Guidance to Federal Financial Assistance Recipient Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 67 Fed. Reg. 41455 (June 18, 2002).

³¹Justice Department, *supra* note 26, at 41459.

³²42 U.S.C. § 2000d-4a.

³³*Id.* at §§ 2000d - 2000d-7.

³⁴HUD, *supra* note 26, at 2740.

³⁵*Id.*

³⁶Executive Order, *supra* note 25, at section 1.

³⁷*Id.* at section 3.

³⁸*Id.*

³⁹Justice Department, *supra* note 26, at 41459.

⁴⁰*Id.* Lacking such a definition, look to how state or local authorities define your service area. Of course, the service area itself cannot be defined in a way that discriminatorily excludes a particular population base.

⁴¹*Id.*

⁴²*Id.*

⁴³Justice Department, *supra* note 26, at 41459.

⁴⁴Justice Department, *supra* note 26, at 41460.

⁴⁵*Id.*

⁴⁶*Id.*

⁴⁷ Ahmad, *supra* note 2, at 1008 (“Courtroom interpretation has emerged as a due process concern in criminal courts, and in other proceedings in which liberty interests are at stake.”); see Justice Department, *supra* note 26, at 41460.

⁴⁸ Corporation for National and Community Service (CNCS), Guidance to Federal Financial Assistance Recipient Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 FR 203 (Oct. 21, 2002), at 64608 available at <http://www.justice.gov/crt/about/cor/lep/CorpforNatlServ2002fin.php>.

⁴⁹*Id.*

⁵⁰*Id.*

⁵¹ Justice Department, *supra* note 26, at 41460.

⁵²*Id.*

⁵³ Get information on service providers at http://www.lep.gov/interp_translation/trans_interpret.html and http://www.lep.gov/guidance/guidance_index.html (Funding agencies will also have suggestions contained in their respective Title VI policy guidance, which is more suited to the kind of services or programs the recipient agency provides).

⁵⁴ Loretta King, Acting Assistant Attorney General, Justice Department, *Remarks at the Meeting of the Federal Interagency Working Group on Limited English Proficiency* (April 20, 2009), available at http://www.lep.gov/Kingremarks4_20_09.pdf.

⁵⁵ King, *supra* note 51.

⁵⁶*Id.*

⁵⁷*Id.*

⁵⁸*Id.*

⁵⁹ Justice Department, *supra* note 26, at 41455.

⁶⁰*Id.*

⁶¹*Id.*

⁶²*Id.*

⁶³*Id.*

⁶⁴ U.S. Department of Transportation (DOT), Policy Guidance Concerning Recipients' Responsibilities to Limited English-Proficient (LEP) Persons, 70 Fed. Reg. 74087 (Dec. 14, 2005), available at http://www.fta.dot.gov/laws/circulars/leg_reg_5956.html.

⁶⁵*Id.*

⁶⁶*Id.*

⁶⁷*Id.*

⁶⁸ Justice Department, *supra* note 26, at 41461.

⁶⁹*Id.*

⁷⁰*Id.*

⁷¹*Id.*

⁷²*Id.* at 41462.

⁷³*Id.* at 41464.

⁷⁴*Id.* at 41463.

⁷⁵*Id.*

⁷⁶*Id.*

⁷⁷*Id.* at 41464; 41471.

⁷⁸*Id.* at 41464.

⁷⁹*Id.*

⁸⁰*Id.*

⁸¹*Id.* at 41456.

⁸²*Id.*

⁸³ Alexander v. Sandoval, 532 U.S. 275 (2001).

⁸⁴ 42 U.S.C. §2000d-1.

⁸⁵ King, *supra* note 51.

⁸⁶ 42 U.S.C. §2000d-1; *see also*, *Guardians Ass'n v. Civil Serv. Comm'n*, 463 U.S. 582, 603 n.24 (1983) (noting that “the Federal Government can always sue any recipient who fails to comply with the terms of the grant agreement” under Title VI) (opinion of White, J.).

⁸⁷*See, e.g.*, Memorandum of Understanding between the United States of America and Palm Beach County Sheriff's Office, DOJ #171-18-17 (2010); Memorandum of Understanding between the United States of America and State of Maine Judicial Branch, DOJ #171-34-8 (2008), *available at* <http://www.lep.gov/PalmBeachSheriffMOA.pdf>; Memorandum of Understanding between the United States of America and Town of Mattawa, Washington & Town of Mattawa Police Department, DOJ #171-81-2; 171-81-3 (2008); Memorandum of Understanding between the United States of America and Lake Worth Florida Police Department, DOJ #171-18-16 (2007).

⁸⁸*Id.*

⁸⁹*Id.*

⁹⁰Cal. Gov't. Code §11135(a) prohibits discrimination based on race, national origin, ethnic group identification or color, religion, age, sex, or disability by “any program or activity that is conducted, operated or administered by the state or any state agency directly or receives any financial assistance from the state.” California Code of Regulations Title 22 section 98210(b) defines the term, “ethnic group identification” to mean “the possession of the racial, cultural or linguistic characteristics common to a racial, cultural, or ethnic group or the country or ethnic group from which the person or his or her forebears originated.”

⁹¹Cal. Gov't. Code § 7290 *ff.* The Act is officially known as the Dymally-Alatorre Bilingual Services Act of 1973 and is available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=07001-08000&file=7290-7299.8>.

⁹²A local agency is considered a recipient of state funds if it employs more than five people and receives more than a total of \$10,000 in state support in a year, or more than \$1,000 in a single transaction.

⁹³ 22 Cal. Code Reg. §§ 98210, 98211(c).

⁹⁴*Id.*

⁹⁵*Id.*

⁹⁶Cal. Gov. Code section 11139 (“This article and regulations adopted pursuant to this article may be enforced by a civil action for equitable relief, which shall be independent of any other rights and remedies.”). Of course, to qualify for injunctive relief, an LEP individual must show that he or she will be harmed if language access services are denied – for example, by showing that without an interpreter, he or she might be denied benefits or that he or she will have to pay for an interpreter. *See Mata v. Shultz*, No. A112301, 2007 WL 1811242, *4 (Cal. Ct. App. 2007) (where interpreter was provided to plaintiff free of charge by a non-profit group, and his services were only delayed by a matter of weeks, he failed to show harm sufficient to provide standing to sue state agency for failure to provide language access); *Blumhorst v. Jewish Family Svcs. of Los Angeles*, 126 Cal. App. 4th 993, 1002 (2005) (standing to file private right of action requires “a plaintiff to allege he or she was personally damaged.”)

⁹⁷ 22 Cal. Code Reg. § 98110 *et seq.*

⁹⁸*Id.*

⁹⁹Cal. Gov't. Code § 54951.

¹⁰⁰Cal. Gov't. Code § 7298.

¹⁰¹*See* Cal. Gov't. Code §§ 7290 (Clarifying other names known and cited as the Dymally-Alatorre Bilingual Services Act); § 7291 (Explains the intentions of the Legislature in adopting the bilingual services regulatory scheme).

¹⁰² Bureau of State Audits, California State Auditor, California State Auditor Report 2010-106: Dymally-Alatorre Bilingual Services Act, 3 (Nov. 2010).

¹⁰³Cal. Gov't. Code § 7293.

¹⁰⁴*Id.*

¹⁰⁵Cal. Gov't. Code § 7295.

¹⁰⁶The California Legislature's concern in passing the Act was broader than ensuring public business would be conducted in multiple languages. In enacting these provisions, the Legislature focused on effective communication between residents and local officials and service providers. The Legislature intended for local

agencies to take steps to insure that non-English speakers are taken into account whenever a local agency has contact with the public, not merely to burden local agencies with additional requirements.

¹⁰⁷See Bureau of State Audits, California State Auditor Report 2010-701, Recommendations for Legislative Consideration from Audits Issued During 2009 and 2010, 11, (Dec. 2010).

¹⁰⁸*Id.*

¹⁰⁹Cal. Gov't. Code § 7295.

¹¹⁰Cal. Gov't. Code § 7294.

¹¹¹*Id.*

¹¹²Cal. Gov't. Code § 7299.

¹¹³*Id.*

¹¹⁴Cal. Gov't. Code § 7293.

¹¹⁵Cal. Gov't. Code § 7298.

¹¹⁶*Id.*

¹¹⁷Cal. Gov't. Code § 7295.4.

¹¹⁸Cal. Gov't. Code § 7291.

¹¹⁹Cal. Gov't. Code § 7292(b).

¹²⁰Cal. Gov't. Code § 7290, *et seq.*

¹²¹See <http://www.cpuc.ca.gov/General.aspx?id=5406>.

¹²²See http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB438.

¹²³See, e.g., Department of Toxic Substances Control, Public Participation Manual, Chapter 6, 55 (2001) (noting that public notices should be provided in languages other than English where non-English speaking residents might be affected). Available at

<http://www.dtsc.ca.gov/LawsRegsPolicies/Policies/PPP/PublicParticipationManual.cfm> (last visited Nov. 13, 2010); *Id.* at Chapter 6, 84-85 (encouraging the use of interpreters at public hearings when requested).

¹²⁴14 Cal. Code Reg. § 15201.

¹²⁵14 Cal. Code Reg. § 15000 *et seq.*

¹²⁶See, Luke Cole, The Struggle of Kettleman City: Lessons for the Movement, 5 Md. J. Contemp. Legal Issues 67, 75-77 (1994).

¹²⁷*Id.*

¹²⁸*El Pueblo Para el Aire y Agua Limpio v. County of Kings*, 22 Env. L. Rptr. 20357, 20358 (Cal. Super. Ct. 1991).

¹²⁹*Id.*

¹³⁰Migration Policy Institute, National Center on Immigrant Integration Policy, Language Portal, Language Access Policies at the State and Local Level, *available at*

http://www.migrationinformation.org/integration/language_portal/doc4.cfm.

¹³¹Chapter 2.30, Oakland Municipal Code; see National Immigration Law Center, *Issue Brief: Access to Services for Limited English-proficient Persons*, 7, (Aug. 7, 2003).

¹³²National Immigration Law Center, *Issue Brief: Access to Services for Limited English-proficient Persons* 7 (Aug. 7, 2003).

¹³³*Id.*

¹³⁴Oakland, CA, Municipal Code, § 2.30.020(d).

¹³⁵*Id.*

¹³⁶*Id.* at §§ 2.30.020(h)-(l), and 2.30.040.

¹³⁷*Id.* at § 2.30.020(a), (k), and (l).

¹³⁸*Id.* at § 2.30.150.

¹³⁹*Id.* at §§ 2.30.070, 2.30.050(b) and (c).

¹⁴⁰San Francisco, CA., Admin. Code § 91.1(b)(3-6). Ordinance No. 27.15: Language Access Ordinance (March, 3, 2015) available at: [http://sfgov.org/ocea/sites/default/files/FileCenter/Documents/12806-](http://sfgov.org/ocea/sites/default/files/FileCenter/Documents/12806-LAO%20Amendments%20Final.pdf)

[LAO%20Amendments%20Final.pdf](http://sfgov.org/ocea/sites/default/files/FileCenter/Documents/12806-LAO%20Amendments%20Final.pdf)

Ordinance No. 202-09: Language Access Ordinance (August 19, 2009) available at

<http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances09/o0202-09.pdf> formerly known as ordinance No. 126-01: Equal Access to Services Ordinance (June 15, 2001)

available at <http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances01/o0126-01.pdf>

¹⁴¹*Id.* at foreword.

¹⁴²*Id.* at § 91.11(b).

¹⁴³*Id.* at § 91.11(c).

¹⁴⁴*Id.* at § 91.11(b).

¹⁴⁵*Id.* at § 91.11(c).

¹⁴⁶ Philadelphia, PA., Exec. Order No. 4-01.

¹⁴⁷*Id.* at § 1.

¹⁴⁸*Id.*

¹⁴⁹*Id.*

¹⁵⁰*Id.* at § 1(a)(b).

¹⁵¹*Id.*

¹⁵²*Id.* at § 1.

¹⁵³ Philadelphia Home Rule Charter (new Charter Section 8-600).

¹⁵⁴ Press Release: City of Philadelphia Launches Language Access Philly (May 12, 2016)

available at <https://beta.phila.gov/press-releases/mayor/city-of-philadelphia-launches-language-access-philly/>.

¹⁵⁵ Minneapolis, MN, Resolution of the City of Minneapolis.

¹⁵⁶*Id.*

¹⁵⁷*Id.*

¹⁵⁸*Id.*

¹⁵⁹*Id.*

¹⁶⁰ Minneapolis, MN, Resolution of the City of Minneapolis and City of Minneapolis's official website located at http://www.ci.minneapolis.mn.us/policies/LEP_Policy.asp.

¹⁶¹ City of Minneapolis's official website (retrieved March 14, 2011).

¹⁶²*Id.*

¹⁶³ Minneapolis in Any Language: Policies and Procedures to Ensure Equal Access to City Services for People with Limited English Proficiency, November 2004 located at

http://www.ci.minneapolis.mn.us/www/groups/public/@clerk/documents/webcontent/convert_263025.pdf

(retrieved March 14, 2011).

¹⁶⁴ Minneapolis City of Lakes, 2015 Language Access Plan (Nov. 2015) available at

<http://www.ci.minneapolis.mn.us/www/groups/public/@clerk/documents/webcontent/wcms1p-151789.pdf>.

¹⁶⁵ Minneapolis 2015 Language Access Plan p.5.

¹⁶⁶ National Immigration Law Center, *supra* note 129.

¹⁶⁷ City of Monterey Park, CA, Administrative Policy No. 10-35 available at

<http://www.montanaprobono.net/geo/search/download.63535>. The city has one of the few Asian majorities in the U.S. and within that Asian majority there is incredible diversity per Monterey Park's Administrative Policy No. 10-35 p.1.

¹⁶⁸*Id.*

¹⁶⁹*Id.* at p.3.

¹⁷⁰*Id.*

¹⁷¹*Id.*

¹⁷²*Id.*

¹⁷³ City of New York, NY, Admin. Code Chapter 10 available at

<http://www1.nyc.gov/assets/immigrants/downloads/pdf/locallaw-73.pdf>.

¹⁷⁴*Id.* at § 8-1003(b).

¹⁷⁵ City of New York, NY, Exec. Order No. 120 available at http://www.nyc.gov/html/om/pdf/2008/pr282-08_eo_120.pdf.

¹⁷⁶*Id.* at §§ 1 and 2(a).

¹⁷⁷*Id.* at § 2(c).

¹⁷⁸ Language Access Act of 2004 § 8(b) available at

https://www.lep.gov/resources/2008_Conference_Materials/DCLanguageAccessActof2004.pdf

¹⁷⁹*Id.* at §§ 3 and 4.

¹⁸⁰*Id.* at §§ 5(b) and 6.

¹⁸¹*Id.* at § 4(a).

¹⁸² Blog: Building a City that Responds to All Residents (Jan. 5, 2011) available at <http://sdblog.seattle.gov/2011/01/05/building-a-city-that-responds-to-all-citizens-2/>.

¹⁸³ City of Seattle, WA, Exec. Order No. 01 07 § 2 available at http://www.migrationpolicy.org/sites/default/files/language_portal/Seattle_Executive_Order_01-07_0.pdf.

¹⁸⁴*Id.*

¹⁸⁵*Id.*

¹⁸⁶*Id.*

¹⁸⁷*Id.*

¹⁸⁸ City of Seattle's website located at <http://www.seattle.gov/html/citizen/language.htm>.

¹⁸⁹ City of Seattle Resolution 31316 available at <http://clerk.ci.seattle.wa.us/~scripts/nph-brs.exe?s1=&s3=31316&s2=&s4=&Sect4=AND&l=20&Sect2=THESON&Sect3=PLURON&Sect5=RESNY&Sect6=HITOFF&d=RESF&p=1&u=/~public/resny.htm&r=1&f=G>.

¹⁹⁰ Montgomery County Executive Order 046-10: Access to Government Services for Individuals with Limited English Proficiency pp. 1-2 (March 4, 2010).

¹⁹¹*Id.* at p. 3.

¹⁹²*Id.* at p. 4.

¹⁹³ Empire Justice Center Press Release: Suffolk County Executive Signs Countywide Language Access Order (Nov. 14, 2012) available at <http://www.empirejustice.org/about-us/press/press-releases/suffolk-county-executive.html#.WGy4kfrLIU>.

¹⁹⁴ Executive Order No. 10: Suffolk County Countywide Language Access Policy (Nov. 9, 2012) available at <http://www.empirejustice.org/assets/pdf/press-release/suffolk-lep-release.pdf>.

¹⁹⁵ *Supra* at note 203.

¹⁹⁶ City Charter of the City of Houston, Article 6 7(a) p. 2 available at <http://www.houstontx.gov/execorders/1-17.pdf>.

¹⁹⁷ See City of Houston, Office of the City Secretary (Jan. 31, 2014) available at http://www.houstontx.gov/ispeakhouston/dlap/City_Secretary.pdf.

¹⁹⁸*Id.*

¹⁹⁹*Id.* at p.1.

²⁰⁰*Id.*

²⁰¹ City of Chicago, Municipal Code Amendments Title 2, Chapter 40, Citywide Language Access to Ensure Effective Delivery of City Services (May 6, 2015) p. 2 available at <https://chicago.legistar.com/LegislationDetail.aspx?ID=2245103&GUID=8C44AF6F-075A-4942-998B-8787203D7CD5&Options=Advanced&Search=>.

²⁰² City of Chicago Chapter 2-40-020 §§ 1a and b(1).

²⁰³*Id.* at § 1b(3).

²⁰⁴*Id.* at § 1b(4).

²⁰⁵*Id.* at § 1c.

²⁰⁶*Id.* at § 1, 2-40-03.

²⁰⁷*Id.* at § 1, 2-40-050.

²⁰⁸*Id.* at § 1, 2-40-060.

²⁰⁹*Id.* at § 3,

²¹⁰ City of San Jose Memorandum to Mayor and City Council regarding Language Access Policy (Nov. 10, 2016) available at <http://www.sanjoseinfo.org/external/content/document/1914/2899490/1/11-10-16-CMO.pdf>.

²¹¹ In 2007, for example, the City of San Jose's Policy and Planning Division established a Language Access Plan for its Housing Department: Language Access Plan: *Improving Access to Housing Services for Limited English Proficient Persons in the City of San José* (Dec. 18, 2007) available at <https://www.sanjoseca.gov/DocumentCenter/View/42439>.

²¹² *Supra* note 220, p. 2.

²¹³*Id.* p.1.

²¹⁴*Id.* p.2.

²¹⁵*Id.* p.1.

²¹⁶*Id.* p.2.

²¹⁷*Id.*

²¹⁸ Bureau of State Audits, California State Auditor, California State Auditor Report 2010-106: Dymally-Alatorre Bilingual Services Act, p. 2 (Nov. 2010). The Bureau of State Audits found that a California Multiple Award Schedules (CMAS) vendor provided translating services for half of the price charged by contractors hired by two separate agencies. "If these agencies purchase these services up to their maximum contracted amounts, they will collectively end up paying approximately \$47,400 more than if they purchased these services from the CMAS vendor." Two other agencies "split contracts by entering into multiple service orders with single vendors to provide the same type of bilingual services. Thus, these agencies violated the [s]tate's contracting rules by not combining the services into one job and obtaining competitive bids."

