

LIMITED ENGLISH PROFICIENCY LANGUAGE ACCESS PLAN



NC DEPARTMENT OF
NATURAL AND CULTURAL RESOURCES

Limited English Proficient Language Access

Across North Carolina, it is estimated that over one million individuals speak a language other than English and approximately 538,000 of those individuals speak English less than “very well”, thus classifying them as limited English proficient (U.S. Census American Community Survey 2023, Table S1601). Individuals who have a limited ability to read, write, speak, or understand English are considered limited English proficient (LEP). This document seeks to provide employees at the North Carolina Department of Natural and Cultural Resources (NCDNCR or the Department) with resources and a protocol for interacting with identified LEP individuals or communities. It is NCDNCR’s policy that when communities need language assistance to meaningfully participate in NCDNCR’s programs or events, opportunities for such assistance will be identified and pursued when deemed appropriate through the guidelines of this Plan.

Legal Authority

The Department is a recipient of financial assistance from multiple federal agencies. As a recipient of federal funding, NCDNCR must comply with applicable provisions of federal civil rights laws and policies prohibiting discrimination including Title VI of the Civil Rights Act of 1964 (Title VI). 42 U.S.C. § 2000d. Title VI specifically prohibits recipients from discriminating on the basis of race, color, or national origin. The U.S. Supreme Court held in *Lau v. Nichols*, 414 U.S. 563 (1974), that actions by a federally funded program that have a disproportionate effect on LEP persons are barred by the Title VI prohibition against national origin discrimination. Thus, recipients of federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to government services.

Additionally, Executive Order 13166 (August 11, 2000), Improving Access to Services for Persons with Limited English Proficiency, requires each federal agency that provides financial assistance to recipients to develop guidance regarding their obligations under Title VI to provide meaningful access to LEP persons. The U.S. Department of Justice (DOJ) simultaneously issued general guidance (DOJ Guidance) to federal agencies on implementation of the Executive Order. 65 FR 50123 (August 16, 2000).

NCDNCR Approach

In developing this LEP Plan, NCDNCR has generally followed the recommendations provided in the guidance documents issued by multiple federal agencies. NCDNCR has assessed its programs using DOJ guidance:

- **Step One:** Program Assessment with the following four factors:
 - The number or proportion of LEP persons eligible to be served or likely to be encountered
 - The frequency of contact with LEP individuals
 - The nature and importance of the program
 - The resources available

- Step Two: Developing an Effective LEP Plan With the Following Elements
 - Identifying LEP Individuals Who Need Language Assistance
 - Language Assistance Measures
 - Training Staff
 - Providing Notice to LEP Persons
 - Monitoring and Updating the LEP Plan

NCDNCR Program Assessment

Title VI and its implementing regulations require federal recipients like NCDNCR to take reasonable steps to ensure meaningful access to agency programs and activities for LEP persons. There is no prescriptive method for accomplishing this goal. Instead, agencies are encouraged to determine the extent of their Title VI LEP obligations by performing an individualized assessment in accordance with a four-factor analysis described in the DOJ Guidance. The ultimate purpose of the assessment is to achieve an appropriate balance of the four factors. The full guidance document can be found at: <https://www.federalregister.gov/documents/2000/08/16/00-20867/enforcement-of-title-vi-of-the-civil-rights-act-of-1964-national-origin-discrimination-against>.

As set forth below, NCDNCR has performed a preliminary analysis following the four factors presented in the DOJ Guidance.

Factor 1: The number or proportion of LEP persons eligible to be served or likely to be encountered

The DOJ Guidance indicates that determining reasonable steps for providing meaningful access depends on the number or proportion of people who would be excluded due to language barriers. The greater the number or proportion of LEP persons in an area, the more likely language services are needed. NCDNCR's service area extends across the state of North Carolina, where approximately 12.3% of the population speaks a language other than English (American Community Survey, 2022 5 Year Estimate, Table S1601) and approximately 2.4% of the population is Limited American Community Survey, 2018 5 Year Estimate, Table S1602). Thus, there is reason to expect that LEP persons may encounter NCDNCR programs. Information related to site-specific LEP needs may be available from the following sources: NCDNCR employees with experience in the community, feedback from visitors, community and non-profit support organizations, and census data. These sources may assist in identifying populations for whom additional language services are needed and for which populations translation services would be most beneficial.

Factor 2: The frequency of contact with LEP individuals

According to the DOJ Guidance, the LEP obligations of a recipient such as NCDNCR are greater if there is more frequent contact with LEP individuals when compared to unpredictable or infrequent contact. The EPA Guidance document further indicates that the frequency of LEP contact and the resulting need for agency assistance can be assessed on a language-specific basis. The more frequent contact that NCDNCR has with a particular language group, the more likely that enhanced language services in that language are needed.

In North Carolina, the largest LEP population is Spanish-speaking, making up approximately 6.8% of the state population and approximately 25% of the entire LEP

population in North Carolina (American Community Survey 2018, 5 Year Estimate, Table S1602). The next largest language groups are Asian and Pacific Island languages (approximately 21% of the LEP population) and Indo-European languages (approximately 10% of the LEP population).

The frequency of contact with LEP individuals may vary significantly across NCDNCR programs and sites. As this Plan is implemented, it will provide NCDNCR programs with more relevant data on this issue.

Factor 3: The nature and importance of the program

The federal guidance documents indicate that the need for language services is related to the importance of the action by a recipient like NCDNCR. For example, the obligation to communicate information to a person ill or injured in a park may differ from someone conducting voluntary research in the Archives. With this guidance in mind, the need for LEP services could vary significantly, as actions by NCDNCR programs cover a broad spectrum in terms of urgency and potential consequences. As this Plan is implemented, it will provide NCDNCR programs with more relevant data on this issue.

Factor 4: The resources available

The DOJ Guidance discusses the potential impact of available agency resources in determining what would constitute reasonable steps to address LEP concerns. In summary, DOJ states that agencies with larger budgets would be expected to provide more language services than those with smaller budgets. In addition, the Interior and EPA Guidance state that “reasonable steps” may cease to be reasonable where the costs substantially exceed the benefits. NCDNCR will seek cost-effective options, such as technology-based solutions, to promote effective LEP programs and services.

NCDNCR has already been exploring effective language service options that are appropriate with the Department’s available resources. For example, NCDNCR has successfully initiated translations and community outreach by bilingual, Spanish-speaking NCDNCR staff, including document translations for agency actions when analysis of the specific area shows a need, webpages in Spanish to provide general agency activities. The NCDNCR Website uses Google Translate, and visitors can choose between 16 languages to access information. All information regarding the department can be found on the website.

LEP Plan

Based on the four-factor assessment above, NCDNCR has developed an initial plan for implementation of reasonable steps to achieve its LEP goals. NCDNCR anticipates that the plan will be subject to further evaluation and revision over time based on NCDNCR’s actual experience and feedback from the public on this initiative. NCDNCR’s goal is to implement steps based on its best judgment, and then to refine those steps to advance the success of its LEP assistance program. This approach is consistent with the requirements of Title VI. The EPA Guidance states: “While all recipients should work toward building systems that will ensure access for LEP individuals, EPA acknowledges that the implementation of a comprehensive system to serve LEP individuals is a process and that a system will evolve over time as it is implemented and periodically reevaluated.” 69 FR 35602.

1. Identifying LEP Individuals Who Need Language Assistance

The analysis under the first and second factors above provides a preliminary view of individuals who may be eligible for language assistance. NCDNCR is a front-facing agency that provides services to the public daily. The agency manages 28 historic sites, seven history museums, two art museums, four science museums and two outdoor science education centers, four aquarium facilities, 42 state parks and recreation areas, the N.C. Zoo, the State Library, the State Archives, the N.C. Arts Council, the African American Heritage Commission, the American Indian Heritage Commission, State Historic Preservation Office, Office of State Archaeology, and Division of Land and Water Stewardship, including the N.C. Land and Water Fund conservation grant program, and the Natural Heritage program. Visitors speak a variety of languages and services are available upon request. Because NCDNCR's actions and public outreach are often community-based, the identification of LEP individuals will depend on the population in the specific community. Achieving this often involves coordination between NCDNCR division and site staff, and the NCDNCR Office of Cultural Engagement. Some of the resources utilized by NCDNCR staff to identify if a community has potential LEP populations or individuals who need language assistance include: Census and American Community Survey data, interactions with community members and community organizations, and EJ Snapshots or Reports.

2. Language Assistance Measures

The EPA Guidance states that the two principal methods of serving LEP individuals are providing oral and written language services. Oral language services consist of interpretation by listening to something in one language and orally translating it into another language. This may include on-site interpretation when a high volume of LEP individuals is in or expected to attend a significant public event. Written language services consist of translation by replacing written text from one language into equivalent written text in another language. It may range from translation of an entire document to translation of a short descriptive summary of the document.

Factor 3 (The nature and importance of the program) influences the identification of appropriate language assistance measures. NCDNCR uses software that can collect information about LEP individuals using NCDNCR facilities to identify how often services are used, and which languages are requested. NCDNCR also offers services through a third-party contractor for language assistance. Services include:

- Translation Services to include translation and quality assurance for publication purposes (translation, editing, & proofreading by linguists).
- American Sign Language Community In-Person Interpreting: Enables communication access to essential services for Deaf/Hard-of-Hearing individuals.
- Community Virtual Consecutive Interpreting (VCI): an interpreter listens to and analyzes the message while one of the parties is speaking, and then delivers the interpretation into another language when the speaker pauses. VCI can be delivered via any web conferencing or teleconferencing platform or application.
- American Sign Language Community Virtual Interpreting (VASL): Enables communication access to essential services for Deaf/Hard-of-Hearing individuals. VASL can be delivered via any web conferencing or teleconferencing platform or application.

- Over-the-Phone Interpreting (OPI): Over-the-Phone Interpreting (OPI) provides telephone access to remote interpreters. Services are performed by professional spoken language interpreters. Over-the-Phone interpreting works from any modern touch-tone phone.
- Video Remote Interpreting (VRI): Video Remote Interpreting (VRI) provides video telecommunication access to spoken and sign language interpreting services.
- Services are performed by professional spoken language interpreters or by ASL interpreters who are nationally certified by the Registry of Interpreters for the Deaf (RID)/Center for the Assessment of Sign Language Interpreters (CASLI) or state certified/licensed.

DNCR staff may be contacted directly by LEP individuals seeking assistance. This may include in-person contact, by telephone or by written communication.

3. Training of NCDNCR Staff

Training will be offered to NCDNCR staff, with particular focus on employees who are likely to encounter LEP individuals. The training will include information about the LEP Plan and the related resources, policies and procedures. Staff who routinely encounter LEP persons will be offered refresher training and the opportunity to provide feedback on the Department's LEP Plan.

4. Providing Notice to LEP Persons

A contact form is available in 16 languages on the NCDNCR website. This will enable the comment to be written in the preferred language while allowing for a faster translation from NCDNCR. In providing its response, NCDNCR will seek the support of bilingual staff and third-party translation services when possible.

5. Monitoring and Updating the LEP Plan

NCDNCR intends to periodically review this LEP Plan to determine if language assistance measures and staff training are effective. In accordance with EPA guidance that acknowledges that creating systems to serve LEP individuals is an evolving process, NCDNCR intends to update this plan in 2025 and regularly review it in subsequent years. In evaluating the effectiveness of the Plan and the need for additional measures, NCDNCR will assess the feedback from agency staff and the public, including LEP individuals. NCDNCR may also consider the availability of its own resources, and ways to deliver language services in a more cost- effective or impactful way.

References: Federal LEP Guidance Documents

Environmental Protection Agency (EPA):

<https://www.gpo.gov/fdsys/pkg/FR-2004-06-25/pdf/04-14464.pdf>

Department of the Interior (DOI):

<https://www.gpo.gov/fdsys/pkg/FR-2003-12-24/pdf/03-31693.pdf>

Department of Justice (DOJ):

<https://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf>

Institute of Museum and Library Services (IMLS):

<https://www.govinfo.gov/content/pkg/FR-2003-08-07/pdf/03-20160.pdf>

National Endowment for the Humanities (NEH):

<https://www.neh.gov/grants/manage/neh-policy-guidance-title-vi-prohibition-against-national-origin-discrimination-it>

National Archives and Records Administration (NARA)

<https://www.govinfo.gov/content/pkg/FR-2004-01-12/pdf/04-545.pdf>