

Language Services for Limited English Proficient (LEP) Individuals at Social Services Offices

Discrimination by the New York State Office of Temporary and Disability Assistance (OTDA), by the New York State Department of Health (DOH), by the New York State Office of Children and Family Services (OCFS) or by the local Department of Social Services (LDSS) based on national origin is illegal.¹ In 1999, DOH and OTDA reemphasized the prohibition on national origin discrimination and described the obligation of all LDSS to ensure that language services are provided to limited English proficient (LEP) individuals.² In 2006, OCFS described how every LDSS must provide LEP individuals meaningful access to programs and services.³

Local Department of Social Services Language Assistance Service Requirements

1. LEP applicants and recipients are not required to bring their own interpreter, and no person may be denied access to benefits, programs or services because of a LDSS inability to provide adequate interpreters.
2. If an applicant or recipient for benefits or services is limited English proficient (LEP), the district is responsible for obtaining a qualified interpreter.
3. No LEP individual shall be denied access to an application for benefits, programs or services based on a LDSS's inability to provide adequate interpretation services.
4. LEP individuals must be able to apply for benefits and services without undue hardship.⁴
5. When an appointment is rescheduled for a person who is LEP because no interpreter is available on the date the application is filed, the delay does not affect the application filing date or any other dates relevant to the processing of applications.
6. Districts must assure that emergency or immediate needs of the LEP individual are addressed as may be appropriate to the case.⁵
7. Districts must post the "Interpreter Services Poster" (PUB-4842) in all TA, MA and FS Benefits client waiting areas.⁶

When an LEP Applicant or Recipient Calls or Visits the LDSS, the District Must:

1. Ask the LEP person what language he/she speaks.
2. If the person is unable to answer the question, attempt to identify the applicant's/recipient's language by having him/her point to the language on a poster or Interpreter Services Desk Guide, PUB-4842 Language Poster (6/04)/PUB-4843 Interpreter Services Desk Guide (6/04).
3. Once the language is identified, solicit (if available) the aid of an on-site bilingual staff person to assist as an interpreter. The district should not seek the aid of a bilingual applicant or recipient.
4. Refer to the district's specific procedure for providing access to LEP persons if no qualified interpreter is available on-site;

¹ New York State Office of Temporary and Disability Assistance (OTDA), Administrative Directive 06-ADM-05 Revised April 27, 2006, pg. 13, available at www.otda.state.ny.us/directives/2006/ADM/06-ADM-05.pdf; See also N.Y. COMP. CODES R. & REGS. tit. 18, §303.1, available at, or <http://tinyurl.com/2j2n2w>.

² GIS MA/021, available at: <http://www.wnyc.net/pb/docs/99%20MA-021.pdf> (PDF).

³ New York State Office of Children and Family Services (OCFS), Informational Letter 06-OCFS-INF-05, May 10, 2006, pg. 2, available at http://www.ocfs.state.ny.us/main/policies/external/OCFS_2006/INFs/06-OCFS-INF-05%20Limited%20English%20Proficiency.pdf.

⁴ OTDA Administrative Directive 06-ADM-05, at pg. 17.

⁵ Id at pg. 15.

⁶ Id at pg. 12.

Language Services for Limited English Proficient (LEP) Individuals at Social Services Offices

5. Be sure that the applicant/recipient understands the date, time and location of the new appointment if a return appointment is required;
6. Address any emergency/immediate needs prior to scheduling a return appointment;
7. Document in the case record the language of the LEP person, whether the LEP person chose to use his/her own interpreter, and/or whether a request for an interpreter was made, so that an interpreter can be scheduled, if necessary, for any future appointments;
8. Document each attempt to contact an interpreter and if the interpreter appeared in person or by telephone.⁷

When Interpreter Services are Needed, the District Must Document:

1. If an interpreter was requested by the applicant or recipient and if so, the date the interpreter was requested;
2. if the district offered to provide an interpreter without the applicant or recipient having made a request for such services;
3. whether the applicant or recipient agreed to use the interpreter provided by the district and if the applicant or recipient agreed to use such an interpreter, how the services were or will be provided; and
4. if the applicant or recipient declines or refuses to use the district's interpreter or interpreter services and brings his or her own interpreter.⁸

LEP Complaint Procedures

1. Districts should assign a staff person to serve as an LEP contact, who will be responsible for monitoring investigation and resolution of complaints and for overseeing procedures that ensure access to benefits, programs and services.⁹
2. Districts must post procedures for filing discrimination complaints in a conspicuous manner and must list those agencies or persons that will handle complaints.
3. Districts should make reasonable efforts to inform LEP applicants or recipients of such complaint procedures.
4. Districts also are responsible for ensuring that staff understands such agency procedures.
5. Districts must investigate complaints of discrimination or improper case administration.¹⁰
6. Districts must comply with the requirements of 18 NYCRR Part 356 outlining a district's responsibility to respond to complaints by or on behalf of an applicant for or recipient of TA, FS or HEAP.
7. Food Stamp complaint procedures are outlined in 03 LCM-3, Food Stamp Program Civil Rights Complaint Procedures and displayed on LDSS-8036, Food Stamp Complaint Procedure poster.¹¹
8. At a minimum, the complaint procedures for all other programs outside Food Stamps must ensure that reasonable procedures have been developed and are in effect to investigate complaints of denial of access by LEP individuals.¹²

⁷ OTDA Administrative Directive 06-ADM-05, at pg. 18.

⁸ Id at pg. 17-18.

⁹ Id at pg. 17.

¹⁰ Id at pg. 12-13.

¹¹ Id at pg. 14.

¹² Id at pg. 15.

Food Stamp Program Limited English Proficient (LEP) Checklist

This checklist is to assess state agency and local office compliance with the language service requirements of the Food Stamp Act, Title VI of the Civil Rights Act of 1964 (Title VI), and Food and Nutrition Service (FNS) 113-1 to ensure meaningful access by LEP applicants and recipients.

OUTREACH TO THE LEP COMMUNITY

- The food stamp office informs the public, all potentially eligible LEP households, community leaders, and grassroots organizations about the Food Stamp program and Title VI requirements, including the right to receive language services free of charge. FNS 113-1, see also 65 FR 70134-01, 70,144.
- Each office informs potentially eligible LEP applicants, recipients, and grassroots organizations of changes in programs related to eligibility, benefits, services, local office or service delivery points, and hours of service using appropriate media (newspaper, radio, television, internet, etc.) FNS 113-1.
- Each food stamp office prominently displays the "And Justice for All" poster, or an equivalent, describing the right to file a Title VI discrimination complaint. 7 CFR § 272.6(f).

NEEDS OF THE LEP COMMUNITY

- The state agency and local food stamp program have developed estimates on the number of low income LEP households participating and not participating in the program. 7 C.F.R. § 272.4 (b)(6).

BILINGUAL STAFF AND INTERPRETERS FOR LEP APPLICANTS AND RECIPIENTS

- The state agency shall comply with Food Stamp regulations that require the use of appropriate of appropriate bilingual personnel and printer materials in service areas where there are a substantial number of LEP low-income households. 7 U.S.C.A. § 2020 (e)(1).
- Local districts take reasonable steps and have procedures to ensure that all LEP households have meaningful access to programs and services as required under Title VI. FNS 113-1.
- Information about food stamp program requirements and rights and responsibilities concerning eligibility for benefits is explained to LEP applicants and recipients. 7 C.F.R. §§ 273.2(c)(4); (e)(1).
- In areas where there is a seasonal influx of low-income LEP households, the agency has bilingual materials and staff or interpreters if the number of single-language low-income LEP households meets or exceeds the general numerical requirements. 7 C.F.R. § 272.4(b)(2)(ii)(C)(3), (b)(4).
- The state agency has certification materials in appropriate language(s) and bilingual staff or interpreters for each local office with approximately 100 low-income LEP households. 7 C.F.R. § 272.4(b)(3).
- The state agency has certification materials in appropriate language(s) and bilingual staff or interpreters in each project area with less than 100 low-income LEP households if those households are of a single-language minority. 7 C.F.R. § 272.4(b)(3).
- Each certification office has recorded, for a 6-month period, the total number of low-income LEP households that visit the office and ask about the program, file a new application, or are recertified, if other reliable data on this population is not available. 7 C.F.R. §§ 272.4(b)(2)(ii)(C)(3), 272.4(b)(6).
- Certification offices contacted by more than 100 low-income LEP households in a 6-month period provide bilingual staff or interpreters for timely processing of applications. 7 C.F.R. § 272.4(b)(5)-(6).

DOCUMENTS THAT MUST BE TRANSLATED FOR LEP APPLICANTS AND RECIPIENTS

- If the food stamp office provides bilingual services, they provide program and informational materials translated into appropriate language(s). 7 C.F.R. § 274.4 (b)(2).
- Program materials, including the food stamp application form, change report form, and notices to LEP households are provided in one or several language as is necessary for the particular program service area. 7 C.F.R. § 272.4 (b)(3)(ii)(A),(B).
- If the certification office uses several languages, notices printed in English contain statements in other languages summarizing the purpose of the notice include a telephone number (toll-free number or a number where collect calls will be accepted for households outside the local calling area) where LEP households may call to receive additional information. 7 C.F.R. § 272.4(b)(3)(ii)(B).

- Food stamp program and informational materials have been translated into appropriate language(s) for programs with less than 2,000 low-income households where 100 or more households are of a single-language minority. 7 C.F.R. § 274.4 (b)(2).
- Program and informational materials have been translated into appropriate language(s) for programs with more than 2,000 low-income households if 5 percent or more of those households are of a single-language minority. 7 C.F.R. § 274.4 (b)(2).

APPROPRIATE LANGUAGE SERVICES IN THE APPLICATION PROCESS

- LEP applicants are provided timely, accurate, and fair service. 7 U.S.C.A. § 2020 (e)(2)(B),(B)(i).
- The day an application is requested, the local office provides the appropriate translated application form. 7 C.F.R. § 273.2 (c)(2)(i).
- The state agency website has the food stamp application available in each language in which the application is printed. 7 U.S.C. § 2020 (e)(2)(B)(ii)(I).
- If the state agency has a toll-free hotline for information about food stamps, it is available in appropriate multiple languages for LEP applicants and recipients. 7 C.F.R. § 272.4(b)(3)(ii)(B).
- The food stamp office accepts and begins processing the application of an LEP household the same day it is submitted if it has the name, address, and signature of the applicant. 7 C.F.R. § 273.2(c).
- The local office accepts applications completed by someone on behalf of the LEP applicant.
- Once filed by an LEP household, the FS application is acted on (approved or denied) within 30 days.
- LEP applicants are screened for expedited food stamp eligibility on the same day they file their application. 7 C.F.R. § 273.2(i)(2).
- The eligibility interview for an LEP applicant is done with a bilingual worker or interpreter. 7 C.F.R. § 272.4(b)(2)(ii)(C)(4).
- If the LEP individual did not complete the food stamp application, a bilingual worker or interpreter helps the LEP individual complete the needed information. 7 C.F.R. §§ 273.2(h)(1)(i)(A), 272.4(b)(2)(ii)(C)(4).
- The food stamp office gives LEP individuals a language appropriate list of things they must do to have their eligibility determined. 7 U.S.C. § 2020(e)(3); 7 C.F.R. § 273.2(c)(5).
- The food stamp office does not deny LEP households food stamps because they are unable to get needed documents, only if they refuse to provide documents. 7 C.F.R. § 273.2(f).
- When an LEP individual is certified to continue receiving food stamps it is done with a bilingual staff person or an interpreter. 7 C.F.R. § 272.4(b)(2)(ii)(C)(4).

NOTICES SENT TO LEP APPLICANT AND RECIPIENT HOUSEHOLDS

- Notices of any action taken on the food stamp case or any requests made of the family are provided in appropriate language(s) for LEP applicants and recipients (ex. sanction notices, requests for contact or for information). 7 C.F.R. § 272.4(b).
- The office sends notices in appropriate language(s) to recipient LEP households stating how many food stamps and the start and end date of the certification period. 7 C.F.R. § 273.10(g)(1)(i)(A).
- The food stamp office sends a language appropriate notice giving LEP individuals a chance to reapply before food stamps are cut off. 7 C.F.R. § 272.4(b)(3)(ii)(A).
- If an application is denied, the office explains the reasons why the LEP household was rejected and provides the phone number of the food stamp office and, if possible, the number of a bilingual worker if the LEP individual has any questions. 7 C.F.R. § 273.10(g)(1)(i)(A), (ii).
- The notice tells the LEP applicant in appropriate language(s) about their right to a fair hearing and to get free legal aid. 7 C.F.R. § 273.14(b)(1),(ii)(A).

FAIR HEARINGS FOR LEP APPLICANT AND RECIPIENT HOUSEHOLDS

- When a fair hearing request is made by an LEP household, the State agency provides a bilingual staff or interpreter who speaks the appropriate language. 7 C.F.R. § 273.15 (i)(1).
- Hearing procedures are verbally explained in the language of the LEP individual. 7 C.F.R. § 273.15 (i)(1).
- LEP individuals are advised of legal services available to represent them at the hearing. 7 C.F.R. § 273.15 (i)(1).