



LEGAL SERVICES CORPORATION

Guidance to LSC Programs for Serving Client Eligible Individuals with Limited English Proficiency

December 6, 2004

Among the many vast changes that affect how and what services LSC programs provide to clients, none is more significant than the high number of immigrants that have come to the United States over the past few decades. Almost 47 million people in our nation speak a language other than English at home, and of these almost half (over 21 million) speak English “less than very well.” Many of these individuals are US citizens or legal residents; many are quite poor; many are children. LSC programs have an obligation to provide services to clients with limited English proficiency (LEP) that are equal to the services they provide to clients who speak English without difficulty. In order to provide equal access to LEP clients, programs need to develop capacity to deliver quality legal services, in languages other than English, in a way that addresses the needs of these demographic groups. While limited resources and locally determined program priorities inevitably mean that many eligible individuals are not represented by LSC programs, and nothing in this Guidance in any way guarantees service to any eligible individual, the decision whether or not to help someone must not be made on the basis of his or her language abilities. The challenge of accomplishing this goal is significant. This Guidance will serve to provide direction to LSC programs as they develop their LEP activities and an LEP plan.¹

I. Identifying Limited English Proficiency

For purposes of this Guidance, the LEP community is defined as the group(s) of persons eligible to be served or likely to be directly or significantly affected by the LSC program and who do not speak English proficiently. For a program, defining who is an LEP eligible individual will require considerable thought. The National Health Law Program suggests:

¹ Much of this Guidance is based on the work of organizations that have already grappled with the challenges of providing legal services to language isolated populations. In particular LSC appreciates the work of Community Legal Services (Philadelphia), Legal Aid Society of Northeastern New York, Neighborhood Legal Services of Los Angeles County and the National Health Law Program, and the guidance of the LSC Leadership and Diversity Advisory Committee. The letter was also enhanced by public comments submitted in early December 2003.

There are various ways to measure whether a multilingual person is limited English proficient. The Census Bureau asks individuals to self-identify their ability to speak English using a three-part question:

- Does this person speak a language other than English at home?
- What is this language?
- How well does this person speak English --- (1) very well, (2) well, (3) not well, or (4) not at all?

According to the 2000 Census, over 11 million households are “linguistically-isolated,” meaning that every single member of the household over age 14 speaks a non-English language and speaks English less than very well. The Census also found that almost 11 million people, or 4.2 percent of the population, speak English “not well” or “not at all.” Over 21 million people (8.1 percent of the population) speak English less than “very well.”

The National Health Law Program views the 21 million people who speak English less than “very well” as LEP persons in the health care context. This is because medical terminology is difficult to understand, so the level of English comprehension needs to be high.²

This view of limited English proficiency finds support from the United States Department of Health and Human Services Office for Civil Rights (OCR), which defines LEP persons as “individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.” The same definition is used in the U.S. Department of Justice (DOJ) LEP Guidance.³

A program may determine that an eligible individual who has limited English proficiency is one who elects to speak and/or have documents translated into a primary language that is not English. Programs should use the language preferred by an eligible individual for communicating with the program, after the eligible individual has been told that the program provides free interpreters. Eligible individuals may wish to communicate orally in one language and have documents translated into another. For example, an eligible individual may want to speak Spanish with her advocate. She may prefer that the program correspond with her in English because, in this hypothetical, she is illiterate in both languages, but has bilingual family members who have been educated in the U.S., and read English but not Spanish.

² National Health Law Program, *Ensuring Linguistic Access in Health Care Settings: Legal Rights and Responsibilities*, 1.3-1.4 (2003).

³ 68 Fed. Reg. 47311, 47313 (Aug. 8, 2003); *see also* 67 Fed. Reg. 41455, 41459 (June 18, 2002).

A determination of whether the eligible individual has limited English proficiency should be made of the eligible individual, and it should not be affected by the English language proficiency of a friend or family member who accompanies the eligible individual to the program office. An exception occurs when the eligible individual is a minor child or an incapacitated adult. Then, when the LSC program needs to interact with a parent or guardian rather than the eligible individual, language services may be necessary to communicate with those who make decisions for the child or incapacitated adult. Generally, however, choice of language is the eligible individual's to make, and the program will want to communicate with the eligible individual in the language that the eligible individual indicates is preferred.

II. Context for Examining LEP Concerns

So that staff can adequately serve eligible LEP individuals, LSC suggests that programs examine LEP concerns in three contexts. These are:

- Assessing eligible individual needs and program resources in their service area;
- Creating program policy that reflects these needs and resources and provides for training of program staff and the implementation of the program's policy; and
- Approaching LEP strategy and implementation in the context of a statewide effort.

A. Assessment of client needs and program resources in their service area.

1. Language needs

If they have not done so already, programs will want to assess both the size and nature of the language needs of LEP poverty populations in their service area. The Department of Justice Guidance⁴ sets out four factors to use in this determination:

⁴ 67 Fed. Reg. 41455-41472 (June 18, 2002). In 2000 the President of the United States signed an Executive Order requiring Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them. The Executive Order also requires that Federal agencies work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries. To assist Federal agencies in carrying out these responsibilities, the U.S. Department of Justice (DOJ) 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" (LEP Guidance). The DOJ LEP Guidance sets forth the standards that recipients of Federal financial assistance follow to ensure that their programs and services normally provided in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of Title VI's prohibition against national origin discrimination. Programs that receive federal funding should

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the program;
- The frequency with which LEP individuals come in contact with the program;
- The nature and importance of the program's services to people's lives; and
- The resources available to the program and the cost of obtaining them.

Determining the approximate size of this population may not require surveys or similar activities. The US Census describes LEP communities by county in its 2000 Reports under the heading "linguistically-isolated households."⁵ Information on persons who speak a language other than English "less than very well" is also found in this section. Programs may want to obtain information from the US Census office in their region to obtain smaller breakdowns than are found on the Census website (www.census.gov). Additional and perhaps more detailed data may more easily be available from state and local government entities, including planning agencies, and state and local departments of health, education and social services. Local universities and hospitals are another potential resource, as are immigration and refugee advocacy groups and public schools in the program's service area. It is also possible that some members of the state's justice community have already tabulated these data.

It is important to know which eligible LEP individuals and populations of LEP individuals in the program's service area are most affected by the program, and to examine the steps necessary to be taken to assure them meaningful and reasonably equal access to the program's services. First, programs may wish to consider how often in the past eligible LEP individuals have sought services and what services and languages were needed. For programs with culturally competent staff and records of eligible individuals' primary languages, this may be a relatively straightforward internal survey. Others may have to rely on anecdotal staff reports.

Groups with which the program has the most contact may be more likely to request the program's services. This does not mean, however, that other groups are not equally needy. They may be smaller; there may have been no outreach into their community; the program staff might not speak their language or have any ties with that community. Comparisons between the program's internal survey and census data and statistics obtained from other resources (state and local governments, etc.) will help the

determine whether the department or agency that provides the funding has Guidance or requirements different than or in addition to those set forth in the DOJ Guidance.

⁵ The 1990 U.S. Census category for the same population was speaking English "not well" or "not at all."

program determine if there are communities that it has overlooked or ones that have recently come to the service area.

2. Critical Legal Needs

All legal representation offered by LSC programs is important to those they serve. Civil legal services among other critically important activities protect vulnerable people from violence, homelessness, illegal discrimination and denial of critical benefits.

Information on the civil legal needs of the LEP groups in the program's service area may reveal a variance between the program's current priorities and the critical legal services necessary to adequately serve the service area's eligible individuals with limited English proficiency. When that is the case, programs may wish to revisit their priorities in the context of their need to provide meaningful access to justice to eligible LEP individuals and communities.

The program should weigh the extent to which LEP individuals and families do without emergency legal assistance because these crucial services are not available in the eligible individual's language. This examination will help the program determine how to restructure relevant areas of its delivery system and what resources are needed to involve LEP populations in its services and program planning consistent with the program's priorities.

3. Assessing Resources

As part of the decision on changes that may need to be made immediately and what efforts are long-term activities, the program should take into account existing resources and the cost of acquiring additional ones that are essential to providing the LEP population with high quality services. Decisions should take into account the size of the LEP groups and the resources necessary to most effectively serve them. Long-term activities should be reflected in documents and discussions that address the organization's strategic planning for staff, program work and budgets.

As the program conducts its assessments of client needs and program resources in its service area as described above, it will gather valuable information about the LEP needs in the service area. Developing a profile of non-English language needs at the time of the assessment will provide the program with information which will be helpful in developing the program's LEP policy and in modifying and revising it over time.

The program, in conjunction with other stakeholders in the state, may find it helpful to survey the broader community and determine the resources available to it in developing and implementing its LEP policy. For example, other organizations serving immigrant and refugee populations, universities and community groups may be valuable resources. Telephone language services, translation and interpreter services may be available from other organizations, or those organizations may provide assistance when a program is developing internal capacity in those areas.

4. Assessing Potential Impediments

In addition, programs will want to consider whether any current policies or practices of the program create unintended language barriers that interfere with access to its services. The five questions below are useful and applicable to all levels of interaction with clients – telephone and other intake services, referral, advice and representation, and advocacy and outreach, including written and electronic material.

- Does the program have bilingual advocates on staff able to deliver services in the eligible individual's language, or are language interpreters on staff, and/or are there arrangements for trained interpreters and translators to be available for those other languages that are likely to be needed?
- What current program policies, resources and practices exist for identifying an eligible individual's primary language and providing language services for that individual?
- Is staff aware of these policies and practices, and are they actually followed?
- Are the LEP clients aware of the language assistance services available to them, i.e., does the program post notices about the availability of free interpreters and translated written materials?
- Does the program evaluate the effectiveness of its LEP policy, including its interpreter and translation services?

B. Creation of program policy that reflects these needs and resources.

Once the program has assessed the needs of its LEP population and its resources, the program should formulate a written policy that will guide its staff and board of directors. Effective service to eligible LEP individuals will be strengthened by a comprehensive, program-wide policy that assures that the program provides meaningful access to eligible LEP individuals and that reflects the program's resources and needs of eligible LEP individuals in its service area. Such a document stands the greatest chance of success when representatives of each of the organization's functions, such as administration, litigation and advocacy, support staff and intake, and pro bono activities, as well as community leaders, potential beneficiaries and the program board of directors have all contributed to its development. A policy should reflect the strengths and mission of the organization, and the culture and legal needs of the LEP communities. Furthermore, staff who implement the policy will not only need to be knowledgeable about the policy and practices, but also have an understanding of the LEP communities to be served and why it is important to have meaningful access for all eligible individuals in

need of services. Therefore, the policy should include a structure for effective staff training on how to serve eligible LEP individuals. An important element of the policy is how the program will implement its policy and how its staff will carry out the program policy. The policy should also address how the policy and resources will respond to reflect changes in the client community and eligible individual language and legal needs. LSC encourages programs to send their LEP program policy, once developed, to LSC's Office of Program Performance. LSC has posted existing LSC program LEP policies on its LRI website at www.lri.lsc.gov.

In addition to articulating general program policy of providing language appropriate services for LEP individuals, a written LEP policy should include the following elements:

1. Assessment of language needs – Intake by legal services providers is a critical interaction for eligible LEP individuals. Programs should develop, as part of their LEP policy, a mechanism for determining when applicants for services have limited proficiency in English, the preferred language of eligible individuals and the individual's need for an interpreter and note those needs in the records maintained by the program. This mechanism, when used by intake staff and initial public contact staff, will provide the program with ongoing information as to the language needs in its service area. In addition, subsequent interactions with this particular client can be undertaken with a bilingual staff person or an interpreter, and in conjunction with other resources that accommodate the client's culture and language.

To help clients identify their language abilities, programs may want to use the "I speak cards," that are available at www.lep.gov.⁶ Posting multi-lingual signs in many languages (even ones that a program does not think are spoken in the service area) that indicate the availability of free interpreters will significantly help eligible individuals, especially those in the groups the program has determined have particular language needs.⁷ Since eligible individuals may be illiterate in both their primary language and in English, it is also important for staff to make oral inquiries. Programs that use "I speak" cards and posters can have eligible individuals point to their preferred language. This easy way of showing linguistic choice may avoid inaccurate assumptions or confusion. Other methods to respond appropriately to LEP individuals who telephone the program need to be developed and implemented.

2. Staff – Use of bilingual staff is almost always the best way to serve eligible LEP individuals. Efforts to increase bilingual resources will increase a program's ability to reach its LEP community. Not only will bilingual staff understand the program's needs and services, but they will allow the program to create long term strategies for the deployment of services to this community.

⁶ "I speak" cards are small cards that identify in English the language of the bearer, for example, "I speak Spanish" or "I speak Tagalog." Programs may also want to provide 'I speak' cards in wallet size for clients to use in obtaining other federal services in addition to legal services, as well as in other instances.

⁷ A useful sign is available from the U.S. Department of Health and Human Services at www.hhs.gov/region10/ocr/pdf/interp2.pdf.

Programs will want to have bilingual staff or interpreters available for those LEP groups that the program surveys and needs assessments indicate are frequently encountered and in need of legal services. Emphasis should be placed on first obtaining bilingual staff and interpreters for the most frequently encountered language groups. To this end, programs will want to aggressively seek staff with fluency in these languages when they are seeking to fill vacancies, and give additional consideration to hiring one or more persons to function exclusively as interpreters and translators when there are significantly large LEP populations in their service area, often the case in statewide programs or those serving densely populated urban areas.⁸

The program's LEP policy should address the need for supervisors to take into account the "multi-tasking" that can inadvertently be expected of staff who are hired into the program for another position, but who become ad hoc interpreters because of their proficiency in a second language. If such individuals are expected to be available for interpreting and translating, their responsibilities in other areas should reflect this additional charge. Similarly, supervisors will benefit from considering the amount of time involved in client interviews where an interpreter is used. Anyone who has conducted a lengthy interview, questioned a witness or deposed an individual through an interpreter is aware that the process can take twice as long, as everything must be said twice, once in each language. Staff functioning in tandem with interpreters will, of necessity, have longer meetings and other oral interactions with their eligible LEP individuals. Caseload distribution should reflect this.

To facilitate LEP activities, programs may want to appoint at least one person on staff to serve as the LEP coordinator, ensuring that documents and communications are translated, and that once translated, documents remain current, and to note fluctuations in LEP populations and see that services reflect any such significant changes. The LEP coordinator should help design LEP training and should be part of any team that oversees program interaction with eligible LEP individuals. Multi-cultural competence is an essential feature of the coordinator position, as well as a firm grasp of the importance of meaningful access.

3. Training – Effective staff training on the LEP policy and procedures should occur regularly and be part of new staff orientation. Training should reflect the program's LEP policy and include information on the LEP populations served by the program, the program's resources, and information on other community resources for specific LEP populations.

Additionally, the policy should contain plans for orientation and regular training of all public contact staff that interact with eligible individuals on the program's LEP policy, on how best to assess an eligible individual's language needs, how to access language services and use bilingual staff and interpreters when speaking with eligible

⁸ Bilingual fluency is an acceptable job requirement.

individuals, as well as all other parameters of the program's LEP policy. It is essential that staff be sensitive to the difficulties faced by eligible LEP individuals accessing service and the staff is familiar with the program's LEP policy and how it can be used to ameliorate the eligible individual's circumstances. It is very important that staff understand the cultural and language barriers faced by eligible LEP individuals, and be sensitive to them.⁹

Advocates and other staff who will be relying on interpreters during meetings with eligible individuals will often need additional training on how to work with interpreters. Staff members who are asked to provide interpretation and translation services should be given opportunities for improving techniques, obtaining or maintaining certification and refreshing language skills that may be in need of improvement.

4. Interpreters/Translators – Assessing who is competent to interpret (oral translation) and translate (written translation) is an important part of a program's efforts in serving eligible individuals who do not speak English well, if at all. Bilingual staff, translators and interpreters should be fluent in two languages (English and that of the eligible LEP individual) and have an understanding of legal vocabulary and concepts that are involved in the services rendered. In some languages the legal concepts and even words that are familiar to a legal services advocate may not exist, and the interpreter will have to convey meaning in a situation where there is not an exact language counterpart. Programs should clarify for staff when to obtain an interpreter and what documents must be translated, as well as competency standards for each.

When interpreters are drawn from program staff, their usefulness can be augmented, and gaps filled, by outside volunteer and contract interpreters and telephone language services. Contract and volunteer interpreters are sometimes available from local organizations, including community groups that serve the particular community the program seeks to reach.¹⁰

The program should consider retaining outside contractors available on an as-needed basis telephonically or in person for languages not known to program staff and as

⁹ For a description of the importance of helping staff understand the cultural background of their LEP clients see Trang Nguyen, *Working with Linguistically and Culturally Isolated Communities: The Cambodian Outreach Project of Merrimack Valley Legal Services*, 37 Clearinghouse Rev. 79-83 (May-June 2003). An additional and useful resource is Sue Bryant and Jean Koh Peters, *Five Habits for Cross-Cultural Lawyering*. Staffing and other issues along with proven models are included in Asian Pacific American Legal Center, *Expanding Legal Services: Serving Limited English Proficient Asians and Pacific Islanders* (2003). All articles cited in this footnote are posted at www.lri.lsc.gov.

¹⁰ NLADA members currently have an additional resource in NLADA's contractual agreement with Language Line, which provides the following NLADA member benefits: waiver of the enrollment fee; reduced monthly minimum; and aggregate discounts for per minute charges based on usage by all participating programs.

back up for staff.¹¹ Telephone-based interpreter services are essential in any program with full-service intake capabilities and/or where there are many language groups in the service area, as long as it is not the sole method of providing interpreter services for the major language groups in the service area. In each of these instances, as with other volunteers and experts, the program should assure itself that the interpreters and translators meet its internal standards of fluency and should require more than simply self-identified fluency in another language.

In addition, interpreters and translators should be informed of the requirements of confidentiality and impartiality in interpretation, and understand their obligations under interpreters' professional code of ethics or conduct. Programs should consider providing training programs and professional development opportunities for their bilingual staff. Such training should necessarily include the ethics of interpretation.¹²

A model voir dire to help judges ascertain whether an interpreter is qualified is available through the National Center for State Courts, and might be useful to review and have available for program staff and others. In addition, the National Code of Responsibility for Interpreters (and some state variations) may help staff convey to interpreters and clients the obligations of the role of the interpreter. The National Code addresses the importance of accurate and complete interpretations, of impartiality, confidentiality, and of reporting any impediments the interpreter knows of that could interfere with their performance.¹³

Although it is not unusual for programs (and LEP individuals) to rely on family and friends to interpret for the eligible individual, LSC programs should discourage the use of family or friends as interpreters. Far too frequently family and friends are not trained interpreters -- they may not be proficient in English and may not understand legal terminology or situations. Interpretation by family members carries the risk of bias in the translation process, inadvertently through choice of word or emphasis, or through intentional omission of facts. When nonprofessionals such as family members are involved, the eligible individual's privacy diminishes as might the eligible individual's willingness to be candid. For these reasons, programs should very strongly encourage the

¹¹ Organizations serving immigrant and refugee populations, universities and community groups may be helpful resources from which to secure hired or volunteer interpreter and translator services.

¹² The National Association of Judiciary Interpreters (NAJIT) provides resources in this area. See www.najit.org. For additional information on NAJIT and standards for interpreters, see Molly McDonough, *Lost in Translation*, 89 A.B.A.J. 22-23 (Nov. 2003).

¹³ Angela McCaffrey, *Don't Get Lost In Translation: Teaching Law Students to Work with Language Interpreters*, 6 Clinical L. Rev. 347, 376-377 (Spring 2000). Legal services programs may find this article a very useful resource for the many issues that can arise when clients need interpreters in order to be understood by English-speakers. Also found at LSC's LRI website: www.lri.lsc.gov.

use of bilingual staff and competent professional or volunteer interpreters for interpreting, instead of an LEP individual's family and friends.¹⁴

Of even greater concern is the use of minor children as interpreters. In addition to the problems set out above, relying on children may force them to become privy to information that they may be too young or too immature to comprehend or absorb appropriately. Reliance on minor children as interpreters should be used only in extreme emergencies and if there is no other resource, and then only until the services of an unrelated bilingual interpreter can be obtained.¹⁵

Programs may be at risk (of ethical violations or even malpractice) if they do not take precautions to ensure that the communication between the attorney and eligible individual is accurate, free from bias, candid and confidential. In instances where an eligible individual insists that a family member or friend act as interpreter, the program may want to document that decision and even consider having a waiver form available, in the eligible individual's language and in English, that the eligible individual signs, acknowledging the risk and articulating an understanding that free professional interpreter services were offered and, contrary to the advice of the program, were rejected. The program should also seriously consider the benefits of including a program-sponsored interpreter in addition to the family member or friend in the interview in which the advice is given and the waiver is signed and in subsequent meetings to protect staff from misunderstandings by the eligible individual.

In some instances, the eligible individual may have a sufficient grasp of English to provide basic and essential information for the intake process. That same individual may require an interpreter for a complex discussion with an advocate on the various legal remedies available to her. Eligible individuals who are able to communicate on a rudimentary level in English may be illiterate in both English and in their first language. An interpreter may be needed to help them understand legal documents requiring their assent and signature.

Despite their best efforts, programs or offices of programs may not always have interpreters readily available or vital documents translated into the language of a particular LEP eligible individual. The DOJ Guidance notes: "To be meaningfully effective, language assistance should be timely."¹⁶ Programs should not allow the lack of available language services to result in a denial of effective services or impose an undue burden on the eligible individual. High quality legal services implies services that are given in a timely manner and that do not jeopardize the eligible individual's rights. The

¹⁴ None of the sample policies on LSC's LRI website permit relatives, friends or children to translate for clients. See policies from Legal Aid Society of Mid-New York, Inc., Advocates for Basic Legal Equality, Legal Services of Northwest Ohio and Pine Tree Legal Assistance (Maine) at www.lri.lsc.gov.

¹⁵ For a firsthand account of one teen's experiences as the family's translator, see Paul M. Uyehara, *Opening Our Doors to Language-Minority Clients*, 36 Clearinghouse Rev. 544, 552 (Mar.-Apr. 2003). Also found at www.lri.lsc.gov.

¹⁶ 67 Fed. Reg. 41455, 41460 (June 18, 2002).

LEP eligible individual should have to wait no more than the time it takes to obtain a telephone interpreter, if there is no in-person interpreter, because telephone services should always be available through the program's language line services. Understandably, the program may not be able to secure an interpreter's services immediately, but should at least make a timely effort to conduct an initial assessment and determine the level of urgency the eligible individual's problem presents, using telephone language interpreter services or similar resources that can be obtained quickly until an in-person interpreter can be located and secured. Scheduling interviews and other meetings for a later date, when interpreters are available, can constitute reasonable delay, if the eligible individual's legal needs are not of an urgent nature or the individual's legal rights will not be compromised. Rescheduled appointments should not be delayed for more than a few days or repeatedly rescheduled.

5. Translating documents - Translators serve to translate written material and materials based on writing—such as “how to” videos—from English to another language. Determining which documents to translate and into what languages is addressed in the DOJ Guidance. DOJ defines a document as “vital” if its unavailability will deny a person meaningful access.¹⁷ Vital documents include program documents that the eligible individual must understand and sign, such as retainers, affidavits and, when appropriate, pleadings. When eligible individuals are illiterate in their primary language, an interpreter may also be necessary to ensure that the eligible individuals comprehend the critical document even after it is translated in writing into their primary language.

Trust between the eligible individual and the program will be strengthened when programs translate all vital program documents into the languages of the target LEP communities in the program's service area.¹⁸ Obviously, programs will have to make difficult decisions about translating documents even if they serve a large population of that language group. Some languages historically are not written, and eligible individuals who use that language may speak, but not read, the language.

Considerations that dictate the appropriate selection of interpreters are generally also applicable to translators. In many instances a program will want to use staff as a first choice. Outside professional translators and skilled volunteers who are competent in both languages and technical legal terms may be used to fill gaps and expand beyond staff resources or capacities. Of these, professional, certified translators are preferred. From time to time, to ensure that it is accurate and easily understood by eligible individuals,

¹⁷ 67 Fed. Reg. 41455, 41463 (June 18, 2002).

¹⁸ LSC programs should provide written translations of vital documents for each eligible LEP target language group that constitutes five percent of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally. If there are fewer than 50 persons in a language group that reaches the five percent trigger, the program does not need to translate the vital documents but should provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost. See 67 Fed. Reg. 41455-41472 (June 18, 2002) or www.lep.gov, DOJ Final LEP Guidance.

samples of the primary translator's work product should be reviewed by another translator. In all instances, the translator should be cognizant of the seriousness and importance of the role.

6. Outreach – Programs should develop strategies for dissemination of information about the availability of bilingual staff or free interpreters and develop plans for translating the program's community outreach materials into appropriate languages to inform the public and stakeholders throughout the state that free legal services are available to eligible individuals in their language through interpreters and translators.

An important element of communication with eligible LEP individuals is publicizing the availability of the program's interpreters.¹⁹ Posting information indicating that interpreters and translators are available for free in the program's waiting rooms, printing it in the program's brochures and in other public notices, educational materials and community fact sheets will help persuade eligible LEP individuals that the program is accessible and willing to try to help them. It will be extremely useful to include this information in the program's general telephone message so even eligible LEP individuals who are illiterate will be aware of it. Programs should develop methods to ensure that eligible individuals who indicate somehow that English is not a language they speak with any fluency are informed in their preferred language that free interpreters are available to them for communicating with their advocate at the program's offices as well as at court and administrative hearings.²⁰

7. Oversight – An effective LEP policy should establish steps to ensure it is properly implemented and evaluated on an ongoing basis. The policy and its implementation by the program should be periodically reviewed to ensure its continuing value to the program. The policy should include plans to specify the procedure for the continued oversight and updating of the program's LEP policy and procedures.

C. Approaching LEP strategy and implementation in the context of a statewide effort.

Programs should approach LEP strategy and implications in the context of a statewide effort. In developing an LEP policy, programs should use a process that includes consulting with other service providers throughout the state. The program should include consideration of the other resources that are available to serve eligible

¹⁹ Programs that serve large LEP populations that are illiterate may also want to consider having recorded material for eligible individuals – video, DVD, cassette tape – that includes essential and often repeated information recorded in languages as needed. For illiterate individuals, oral presentations will be far more effective than brochures and flyers written in the eligible individual's primary language.

²⁰ Advocates and clients need to be able to communicate during hearings and at breaks in hearings, and the program's interpreter will be critical in these situations. A court interpreter's role is to enable client-court communication; this is quite different from that of the program's interpreter, who makes effective and meaningful client-advocate conversations possible.

individuals and the challenges that other service providers encounter throughout the state. To the greatest degree possible, LSC programs should coordinate in a collaborative and comprehensive way to enhance their efforts to identify and serve LEP communities, should coordinate efforts to educate staff about clients' cultural experiences and language needs, should coordinate how to identify and document available community and other resources (including interpreter and translation services), and should coordinate their surveys of the language and legal needs of LEP populations.

Ideally, programs will not only work with other LSC programs in the state, if there are any, but also with other members of the state justice community to ensure that needs assessments, training, resources and service provision are coordinated in the most effective and efficient manner.

LSC has posted existing LSC grantee LEP policies on its LRI website at www.lri.lsc.gov and has also included examples of successful approaches to the challenges of appropriately serving LEP communities. Programs are asked to submit their policies and examples of successful approaches to LSC, so that LSC can continue to share useful practices with all of its programs.