

LANGUAGE ACCESS POLICY

As of: May 13, 2013

I. GENERAL POLICY

A. Policy: NYLPI is a civil rights law firm that strives for social justice. To ensure that clients who are limited English proficient (LEP) have meaningful and equal access to NYLPI services, NYLPI will provide language services needed at no cost to ensure effective communication.

B. Responsibility: It is the responsibility of NYLPI, not the client, to provide language services sufficient to ensure effective communication between NYLPI and the client.

C. Non-discrimination: NYLPI shall not provide legal services to clients who are LEP that are restricted, delayed, or inferior as compared to services provided to English proficient clients. NYLPI may need to provide supplemental services to clients who are LEP that would not ordinarily be provided to an English proficient client so that they can reasonably benefit from NYLPI services.

D. Notice: NYLPI shall post notices in multiple languages in the reception area notifying visitors and potential clients that free language assistance services are available as needed, and that they can grieve/provide feedback about the language assistance services NYLPI provides to them. NYLPI shall also state on its website that NYLPI will provide language services at no cost as needed and that immigration status is not relevant to determining client eligibility for NYLPI services.

II. DEFINITIONS

A. Persons who are Limited English Proficient (LEP) shall be defined as people who do not speak English as their primary language or who are limited in their ability to read, write, speak, or understand English to an extent that effective communication in English, particularly with regard to complicated matters, is not possible. People who are LEP can include people who are deaf or hard of hearing.

B. Qualified Interpreter: NYLPI adopts the U.S. Department of Justice's definition of "qualified interpreter." Accordingly, qualified interpreter shall mean an interpreter who is "able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary."

C. Primary Language: A client's preferred or primary language is the language in which he or she is most comfortable speaking. A client able to speak English may have a primary language other than English. If it is not obvious, the preferred or primary language should generally be chosen by the client him/herself.

D. NYLPI Primary Languages refers to Spanish and any other language identified as a language spoken by one percent or more of NYLPI's client population as determined during the annual needs assessment required under III(B) below.

III. LANGUAGE DATA/ASSESSMENT

A. Language Access Coordinator: NYLPI shall have a Language Access Coordinator (Coordinator) with responsibility for the oversight and coordination of language access policies and procedures. The Coordinator, in conjunction with Legal and Program Directors, will work to ensure all language access policies and procedures are implemented. Staff should direct questions, concerns, or suggestions regarding language access policies and their implementation to the Coordinator. The Coordinator shall also be responsible for addressing clients' questions, concerns, and complaints regarding language access policies and their implementation.

B. Annual Review and Needs Assessment: Once a year, NYLPI shall:

1. Review the past year's need for and usage of language services;
2. Assess and document the language skills of staff in the office;
3. Evaluate the language services needed to achieve programmatic goals, including serving and outreach to new communities;
4. Evaluate and update the external language services available and propose appropriate changes if needed;
5. Review the language access policies of the office and propose appropriate changes;
6. Review available demographic data regarding the potentially eligible client population in terms of its linguistic makeup. Such data will be compared to the existing client base to determine if apparent disparities exist. The Coordinator shall consider whether special efforts are needed to provide greater service to underserved language groups.

IV. RECORD KEEPING

A. Training: All staff who have direct client contact shall be trained in correctly identifying and noting for the office records the items delineated in sections (B) and (C) below.

B. Interpretation: All staff who work with clients should make a note in the appropriate file or database of the following:

1. If the client is LEP or if a client has a language other than English as his or her primary language;
2. If the client refused the interpretation services offered by NYLPI.

C. Translation: Staff should inquire of all clients who are LEP and conspicuously note in the relevant file or database:

1. Whether the client is able to read in English;
2. Whether the client is able to read in his or her preferred or primary language;
3. The language the client prefers for written communication, such as correspondence;
4. If the client refused the translation services offered by NYLPI.

D. Tracking: In all instances when an interpreter or translation is used, staff should complete an “Interpreter & Translation Tracking Form” and make a record from that form into the appropriate file or database of the following:

1. The name and organization of the interpreter;
2. The duration of the interpreting encounter;
3. Staff evaluation of the interpretation service.

E. Timekeeping: All time spent by staff interpreters and translators on interpretation/translation should be noted in Timeslips under the Interpreting activity code for the client’s file.

V. IMMIGRATION AND CITIZENSHIP STATUS

A. General rule: A client’s presence as a citizen, immigrant, refugee, or other status, lawful or otherwise, is not relevant to determine eligibility for service except to the extent that the legal issue is based upon a particular status. No official government identification is required for service, unless relevant to the case.

B. Status Inquiry Restriction: Staff shall not inquire as to the citizenship or immigration status of a client unless it is relevant to the client’s case or problem or if the information is necessary to determine the client’s eligibility for referral to another program.

C. Confidentiality: Staff are required to treat a client’s immigration status as privileged information not to be disclosed to third parties without the client’s expressed consent. The consent must be documented in the file.

VI. BILINGUAL CASE HANDLERS

A. Bilingual Case Handlers Preferred: The preferred method of providing services to clients who are LEP is to use bilingual staff who are proficient in the client’s preferred language. All bilingual case handlers shall be assessed for proficiency in their second language before providing services to clients in that language. Bilingual staff providing services in the client’s language must be fluent in that language, with the exception of occasional, emergency, or minor communications such as making an appointment.

B. Hiring: NYLPI considers second language proficiency as a preferred quality in considering applicants for employment for all positions that have client contact. NYLPI actively seeks to enhance its ability to deliver services in multiple languages through the hiring of bilingual staff.

C. Bilingual Ability Required: As of the effective date of this policy, fluency in English and Spanish are job requirements for two positions at NYLPI: the front desk receptionist/office assistant, and one of the Disability Rights Advocate positions in the Disability Justice program. Before hiring them, NYLPI shall assess the Spanish proficiency of candidates for these positions. The relevance of language skills to positions at NYLPI should be part of the annual review and needs assessment.

D. Workload Adjustments: Workload adjustments shall be made to reflect the additional work that may be required of bilingual and monolingual staff in delivering services to clients who are LEP. Such adjustment of a staff person's workload requires the approval of the staff person's supervisor.

VII. DETERMINING NEED FOR LANGUAGE SERVICES

A. Types of Language Service: Language services include: assignment of qualified bilingual advocates to clients who are LEP; interpretation and translation by staff; contracted, professional, in-person and telephone-based interpretation; contracted, professional translation; and volunteer community-based interpretation.

B. Initial Assessment: At the point of first contact with clients, staff shall make an initial assessment of the need for language services, and shall procure such services if they are needed to communicate effectively with the client at that stage of the process.

1. Determining primary language. If difficulty is encountered by staff in identifying the primary language of the client, staff should use "I Speak" cards, multi-lingual interpreter posters, or call the telephone-based interpreting service for assistance.
2. Coalitions and organizational clients. Staff working with coalitions or organizational clients should seek to identify whether members of the groups they are working with are LEP and/or would benefit from interpretation services or translated materials.

C. Subsequent assessment: Any staff member who has contact with clients can raise concerns about language service needs, even if an assessment has been made by another staff member, if that staff member believes that LEP issues are inhibiting effective communication.

D. Client request: Language services shall be provided to any client upon request at no cost, unless it is apparent that the request is unfounded. Staff shall encourage clients who are LEP to use language services whenever there is any doubt as to the client's English language proficiency.

E. Staff decision: Services shall also be provided when a staff member determines that such services appear necessary in order to communicate effectively with the client, despite the lack of a request from the client. Failure to provide language services when needed could impair NYLPI's ability to provide quality legal services and may present ethical issues for the staff member handling the case. In such cases:

1. Language services should be offered even if the client says it is not necessary. If the client refuses language services, a written notation should be made in the appropriate file or database.
2. Staff may need to explain that language services will be provided by NYLPI free of charge in order to ensure that high quality legal services are provided.
3. Staff are encouraged to seek assistance from supervisory personnel or the Coordinator to respond to such situations if difficulties are encountered.

VIII. TRANSLATION

A. When Required: Translations of critical documents shall be provided for clients who are LEP and whose understanding of matters would be greatly improved if written materials were in languages other than English. Critical documents are documents necessary for representation, such as documents which a client must sign, engagement letters, and closing letters. To the extent NYLPI staff can explain non-critical documents through an interpreter, e.g., telephonic interpreter, rather than through translation, NYLPI staff are permitted to do so, as long as this will not provide an LEP client with an inferior level of service compared to English proficient clients. Translations need not be provided to clients unable to read in their primary language, unless this will facilitate communication with others who are assisting the client.

B. Who May Translate

1. NYLPI shall maintain a list of available staff translators that shall be updated by the Coordinator during the annual needs assessment and/or on an ongoing basis. Before designating anyone as a staff translator, NYLPI shall assess their language competency to ensure that staff language skills are sufficient to meet client needs and for the provision of high quality legal services. NYLPI shall not include any staff member on its list of translators who does not demonstrate sufficient proficiency.
2. Translations should be done by staff translators when available and appropriate. When recruiting the assistance of staff translators to complete translations, staff should request those services as far in advance as possible (one week or more). Any adjustment of a staff translator's workload requires the approval of the staff translator's supervisor.
3. Translations may also be done, in accordance with protocol, by contractors.

C. Vital Forms: NYLPI shall undertake to translate all vital forms into the NYLPI primary languages. Vital forms shall include the following documents, which may be added to or amended by the Language Access Coordinator during the annual needs assessment: retainers, consent forms, and release forms. In the event that a vital form has

not yet been translated or a client's language is not one of the NYLPI primary languages, staff are authorized to procure translations but should consult with the Coordinator to ensure that a competent service is utilized.

D. Community Education: NYLPI shall undertake to translate all vital fact sheets and other educational materials intended to be read by clients into the NYLPI primary languages. In the event that a fact sheet or community education materials have not yet been translated or if a client's language is not one of the NYLPI primary languages, staff are authorized to procure translations but must receive pre-approval from their supervisor.

E. Staff Authority: All staff are authorized to procure language services for routine meetings and correspondence, provided that they have received pre-approval for translation or interpretation services from their supervisor prior to undertaking the case, campaign, or project. Language needs should be part of all case planning. Staff shall obtain appropriate approval for translation of larger documents or projects.

IX. INTERPRETATION

A. Staff Interpreters: NYLPI shall maintain a list of available staff interpreters that shall be updated by the Coordinator during the annual needs assessment and/or on an ongoing basis. NYLPI shall assess the language competency of all staff members who are listed as staff interpreters to ensure that staff language skills are sufficient to meet client needs and for the provision of high quality legal services. NYLPI shall not include any staff member on its list of interpreters who does not demonstrate sufficient proficiency.

B. Preferences – Interpreters for Individual Clients: Interpreting service should be provided in the following preferential order in the case of individual clients:

1. Qualified bilingual case handlers who deliver services in the client's primary language, without the need for interpreting, should be used whenever possible and consistent with the provisions of this policy;
2. Staff interpreters;
 - a. Any adjustment of a staff interpreter's workload requires the approval of the staff interpreter's supervisor.
3. Outside professionals, the selection of whom shall follow protocols for obtaining qualified interpreter services;
4. Community-based organization or referring agency staff;
 - a. Such interpreters will be used only at the insistence of the staff or client and after notice that NYLPI prefers to provide free in-house or contracted professional services;
 - b. Proper notation of the circumstances is required.
5. Client friends and relatives. The use of adult relatives or friends of the client as interpreters shall be strongly discouraged by staff.

- a. Such interpreters are permissible only after notice of NYLPI's willingness to provide free professional assistance and at the client's insistence, both of which must be documented in the appropriate file or database.
 - b. It may be necessary for the advocate to bring in an interpreter in addition to or instead of the interpreter provided by the client when necessary to ensure good communication or to avoid a conflict of interest between the interpreter and the client.
6. Child Interpreters Restricted. The use of minor children or other clients to interpret is prohibited absent exceptional or emergency circumstances. The use of minors as interpreters must be documented in the appropriate file or database.

C. Preferences – Interpreters for Organizational Clients: Interpreting service should be provided in the following preferential order in the case of organizational clients or in the case of training, outreach, and informational sessions:

- 1. Qualified bilingual staff who deliver services in the client's primary language, without the need for interpreting, should be used whenever possible and consistent with the provisions of this policy;
- 2. Staff interpreters;
 - i. Any adjustment of a staff interpreter's workload requires the approval of the staff interpreter's supervisor.
- 3. Outside professionals, the selection of whom shall follow protocols for obtaining qualified interpreter services;
- 4. Community-based organization or referring agency staff, the selection of which shall follow protocols for obtaining qualified interpreter services.

D. Prohibition on Asking Clients to Bring Interpreters: Staff are prohibited from encouraging or requiring clients to bring others with them to interpret.

X. COLLABORATION WITH OTHER ORGANIZATIONS

A. Where NYLPI is collaborating with other partner organizations, such as in coalitions or in co-hosting events, NYLPI shall endeavor to share the cost of providing language services with the partner organization(s) to the extent it is feasible to do so. NYLPI staff shall consider the following factors in determining the feasibility of such cost-sharing:

- 1. Size and resources of the partner organization(s).
 - a. NYLPI staff shall consider whether the other organization(s) is/are able to share costs equally or partially with NYLPI.
- 2. NYLPI's programmatic goals with respect to the coalition/event at issue.
 - a. NYLPI staff should consult with the relevant Program Director about relevant programmatic goals.

B. To the extent practicable, NYLPI staff shall endeavor to explore and discuss these considerations with the partner organization(s) at the outset of the relationship, e.g., when forming a coalition or initiating planning to co-host an event.

C. Where it is feasible to share costs with a partner organization(s), NYLPI shall also, in an effort to ensure quality services consistent with this Policy, discuss with the partner organization(s) the question of who shall provide the interpretation/translation services.

D. Where NYLPI staff determines that it is not feasible to share costs with the other organization(s), NYLPI shall bear the costs necessary to provide appropriate language services.

E. If another organization invites NYLPI staff to speak at an event, the hosting organization is responsible for arranging and paying for interpretation/translation services as needed. However, NYLPI staff may consider the factors listed in X.A.(1)-(2), above, in determining whether NYLPI should provide the interpretation/translation services in such situation.

XI. TRAINING

A. General Rule: NYLPI shall provide annual training to all existing staff, and on a rolling basis to all newly hired staff. The training will cover this policy, protocols for use of language services, how to work with interpreters, and other topics as needed.

B. Staff Interpreters: NYLPI shall provide training for staff interpreters on the techniques used in interpreting, interpreter ethics, and other topics as needed.