

At a meeting of the Board of Directors of Legal Assistance of Western New York, Inc. held on December 20, 2005, a resolution was passed by the board of directors as follows:

LEGAL ASSISTANCE OF WESTERN NEW YORK, INC.

POLICY FOR PROVIDING LANGUAGE SERVICES TO CLIENTS WITH LIMITED ENGLISH PROFICIENCY

I. Statement of Goals

A. Legal Assistance of Western New York, Inc. (LAWNY) is committed to providing quality legal services to clients in their primary language.

B. LAWNY will ensure that low-income residents of our communities are not denied access to legal services because they have limited English proficiency. LAWNY will ensure that limited English proficient (LEP) clients receive the same degree of professionalism, respect and courtesy, regardless of race or citizenship status, that is afforded to non-LEP clients.

C. LAWNY recognizes that meaningful access, effective client communication and the provision of quality legal services to LEP clients requires the provision of interpretation and translation services in the client's primary language, i.e., the language that the client feels most comfortable speaking, writing or reading, at all stages of representation, beginning with the intake process.

D. LAWNY will ensure effective communication with LEP clients by providing language services through a bilingual staff member where possible, by contracting with outside interpreter services or volunteer community interpreters where available, and by use of telephone language services when other competent services in the client's primary language are not timely available.

E. LAWNY recognizes that interpretation and translation are skilled professions which require education and training to acquire sufficient fluency in two languages and proper interpretation and translation skills.

F. LAWNY acknowledges that its clients are entitled to confidentiality and privacy, and that the utilization of interpreters and translators must be consistent with maintaining the client's secrets and confidences in accordance with the applicable rules of professional conduct.

Therefore, LAWNY adopts the following policy concerning the provision of oral interpretation and translation services to ensure that its staff can communicate effectively with LEP clients and provide them with quality legal services.

II. Definition of LEP

LAWNY defines eligible individuals who have limited English proficiency as individuals who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English.

III. Review of Census and Other Data to Identify LEP Populations

The LEP subcommittee of the LAWNY Intake Work Group has conducted a review of 2000 census data to identify significant LEP populations within LAWNY's fourteen-county service area (Allegany, Cattaraugus, Chautauqua, Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne and Yates). For the purpose of evaluating the census data, individuals who speak English "less than very well," were considered LEP. The following chart shows the LEP population in each of the counties served by LAWNY, divided into Spanish, European and Asian language categories.

2000 LEP Population Distribution in Western New York Counties							
County	Population	LEP Population	Spanish	European	Asian	Other Language	Population Percentage
Allegany	49,927	320	100	190	(d)	(d)	0.64
Cattaraugus	83,955	955	215	635	45	60	1.14%
Chautauqua	139,750	2,460	1,535	840	45	40	1.76%
Chemung	91,070	580	185	315	(d)	(d)	0.64%
Livingston	64,328	490	255	135	(d)	(d)	0.76%
Monroe	735,343	18,105	7,925	6,950	2,670	565	2.46%
Ontario	100,224	830	455	310	(d)	(d)	0.83%
Schuyler	19,224	120	30	80	(d)	(d)	0.62%
Seneca	33,342	360	80	250	30	0	1.08%
Steuben	98,726	665	175	430	45	15	0.67%
Tioga	51,784	270	(d)	115	80	(d)	0.52%
Tompkins	96,501	1,250	350	420	455	25	1.30%
Wayne	93,765	740	335	320	(d)	(d)	0.79%
Yates	24,621	420	40	370	(d)	(d)	1.71%
Source 2000 U.S. Census							
(d) indicates suppression by U.S. census for disclosure concerns and therefore not available to LAWNY							

The total LEP population is not greater than 5% in any of the fourteen counties. It is highest in Monroe County, with a 2.5% LEP population, 43.8% of which is Spanish-speaking (1.1% of the total population), and 38.4% of which speak a European language. The census does not provide a more detailed county-by-county breakdown of European languages spoken. In Chautauqua County, 1.8% of the total population is LEP, with 62.4% Spanish-speaking (1.1% of the total population) and 34.1% speaking a European language. In Tompkins County, the LEP population is 1.3% with 36.4% speaking an Asian language (0.5% of the total population), 28% speaking Spanish, and 33.6% speaking a European language. In Yates County, the LEP population is 1.71%, with 88.1% speaking a European language (1.5% of the total population) and 9.5% speaking Spanish.

The committee also conducted a survey of all seven LAWNY offices to determine what policies and procedures were already in place with respect to LEP clients, as well as to get the assessment of each office as to what significant LEP populations were eligible for legal services in each of our communities.

After analyzing the census data, as well as the LAWNY office surveys, LAWNY has determined that there is a significant Spanish-speaking LEP client-eligible population in Chautauqua and Monroe Counties. In addition, more analysis needs to be done to determine what Asian languages are spoken in Tompkins County by potential LEP clients and what European languages are spoken in Yates County by potential LEP clients.

IV. Assessment of Language Needs

- A. LAWNY will post and maintain signs in regularly encountered languages in its waiting rooms, reception areas, and other initial points of entry. The posted signs will be conspicuous and will inform individuals that free interpretation and translation services are available to LEP clients. They will invite LEP individuals to identify themselves as persons needing language assistance services. LAWNY's recorded phone message on the office answering machine in the Jamestown and Rochester offices will notify callers in Spanish of the availability of free interpretation and translation services for LEP clients.
- B. At the first contact with the client, the intake worker will assess a client's need for language services. The intake worker will ask for the client's primary language, i.e. the language the client is most comfortable speaking, reading and writing. It is recognized that the LEP client may feel more comfortable speaking one language and reading and/or writing in a different language. The intake worker may ask the client if he or she speaks a language other than English at home. If the client does not understand these questions, or indicates that he/she is more comfortable speaking a language other than English, the intake worker will obtain language assistance in conducting the intake.
- C. If the intake worker cannot determine the client's primary language, if the client is in the office, the intake worker should use the language identifier chart to help determine what language the client is speaking. The language identifier chart has been provided by LLE-Link and is available to staff in all offices. If the intake worker is speaking to the client over the telephone, the intake worker should contact the telephone language service, LLE-Link, and ask for assistance in identifying the language the client is speaking.
- D. Once the intake worker identifies the client's primary language, the primary language (speaking, reading, writing) should be noted in the electronic file in the case management system, on the client screen in TIME and the appropriate screen in Kemp's. If the language is not on the list, it should be entered on the notes screen.

- E. LAWNY staff will offer language identification (“I speak”) cards, which allow LEP individuals seeking services to identify their primary language to agency staff. “I speak” cards are available at www.lep.gov.

- V. Oral Language Interpretation
 - A. Intake for LEP clients
 1. The preferred method of conducting intake with an LEP client is to use bilingual staff. If a bilingual staff member, fluent in English and the client’s primary language, is available to conduct the intake over the telephone or in person, the intake worker should ask the bilingual staff member to conduct the intake. The intake worker should contact the Managing Attorney or Deputy Director of the office if there is a problem using a bilingual staff member.
 2. If a bilingual staff member is not available and the LEP client is on the telephone, the intake worker should contact the telephone language service, LLE-Link, to obtain telephone language assistance in conducting the intake. The intake worker does not need prior approval from the Managing Attorney or Deputy Director of the office to access this service for intake. Once the service is utilized, the intake worker must notify the office administrator so that invoices from LLE-Link can be verified and reconciled.
 3. If the LEP client is coming to the office for an intake and a bilingual staff member is not available, LAWNY should arrange for the services of a qualified interpreter. Each LAWNY office should keep a list of trained interpreters who are available locally to provide interpretation services, including volunteer community interpreters, where available and appropriate. The intake worker should notify the Managing Attorney or Deputy Director or his/her designee that the services of a professional interpreter are needed. If a qualified interpreter is not available, the intake worker should access the LLE-Link telephone service for the in-person interview with the LEP client, using either the conference call or speaker phone feature of the telephone system.
 4. This policy explicitly discourages the use of family members and friends of clients to provide interpretation at intake or any stage of representation. LEP clients should be told that language services, both interpretation and translation, will be provided free of charge. Under no circumstances should a LAWNY staff member require or encourage an LEP client to use a family member or friend as an interpreter. Minor children of clients should not be permitted to serve as interpreters, except for the most routine conversations (e.g. to schedule an appointment, obtain name and address) or in the event of an extreme emergency when there is no other resource and only until the services of a bilingual interpreter can be obtained.
 5. If the LEP client prefers to use the services of a family member or friend as an interpreter, the services of a professional interpreter should be engaged after

consulting with the Managing Attorney, Deputy Director or his/her designee. The client should be asked, out of the presence of the family member or friend, whether the family member or friend has any conflicts with the client, whether utilizing the family member or friend as an interpreter may place the client in an unsafe situation, and any other questions necessary to assess the appropriateness of having the family member or friend serve as the interpreter. If the client continues to prefer to use the family member or friend as an interpreter, the intake worker will provide written confirmation to the client that LAWNY offered free language interpretation services and that the client can avail himself or herself of these services at any time. If the LAWNY staff member deems it necessary to have a professional interpreter available during the course of the intake or ongoing representation in order to ensure effective communication with the client, the staff member should consult the Managing Attorney, Deputy Director of the office or his/her designee.

6. If the LEP client comes to the office accompanied by a representative of an agency who is assisting the client and is bilingual, then the intake worker must ask if the client is comfortable with the agency representative serving as the interpreter. The intake worker should use the telephone language service, LLE-Link, to ask the client this question. If the client says that he/she is comfortable with the agency representative serving as an interpreter, then the intake worker may proceed with the intake. If the client indicates that he/she is not comfortable with the agency representative serving as an interpreter, or if the intake worker has any concerns that the agency representative is not an appropriate interpreter for the client, the intake worker should consult with the Managing Attorney, Deputy Director, or his/her designee.
7. The retainer agreement and any other forms which must be signed by the client or reviewed by the client at intake should be provided in the LEP client's primary language, the language the client feels most comfortable reading. Vital documents, including retainer agreement, statement of clients' rights and responsibilities, authorization for release of information and client grievance procedure, have been translated into Spanish and are currently available to LEP clients whose primary language is Spanish.

B. Ongoing Representation

1. The preferred method of communicating with an LEP client during the course of representation is through the use of a bilingual casehandler who is fluent in both English and the LEP client's primary language. If a bilingual casehandler is not available, then the next preferred method is using a bilingual LAWNY staff member to provide oral interpretation services. If no bilingual LAWNY staff member is available, then a professional interpreter should be engaged for in-person communication from a list of qualified interpreters maintained in each office with the LEP client, and the telephone language service, LLE-Link, should be used for communication with the LEP client over the telephone. The telephone language service may also be used for in-person meetings with the client, via the

conference call or speaker phone feature. if a qualified interpreter cannot be found locally.

2. The Managing Attorney, Deputy Director, or his/her designee should be notified when the services of a professional interpreter are needed. LAWNY staff members may arrange for up to one hour of service from a professional interpreter without obtaining approval from the Managing Attorney or Deputy Director. The casehandler should ensure that there is an agreement regarding payment and billing for services, if applicable, in consultation with the Managing Attorney, Deputy Director, or his/her designee.
3. If a bilingual LAWNY staff member is asked to provide interpretation or translation services on a regular basis, his or her supervisor should make appropriate adjustments to his or her workload.
4. If an interpreter is being used to facilitate communication with an LEP client, LAWNY staff members should recognize that the interpretation will increase the length of the interview or meeting, and plan for extra time when the appointment is scheduled.
5. If an LEP client is represented by LAWNY in a court or administrative proceeding, the casehandler should notify the court or administrative agency regarding the need for an interpreter. If the LAWNY casehandler is not bilingual, the casehandler should, unless time precludes doing so, arrange for an independent professional interpreter to attend the court or administrative proceeding to ensure effective communication between the casehandler and the LEP client. The casehandler should notify the Managing Attorney, Deputy Director or his/her designee of the need for an interpreter.
6. LAWNY will ensure that any person providing interpretation services for LAWNY clients is notified of their obligation to maintain client confidentiality. When the interpretation occurs in person, the interpreter shall execute an agreement to maintain confidentiality. When the telephone language service is used, the LAWNY staff member will remind the interpreter of the obligation of confidentiality. The agreement between LAWNY and the provider of telephone language services addresses the obligation of interpreters to maintain confidentiality.
7. An interpreter shall be utilized whenever the client or the LAWNY staff member thinks that it would be helpful. Even if the client does not think that an interpreter is necessary, the staff person must be confident that he/she can understand the client clearly, and that he/she can understand the facts of the case and the client's intentions and goals.
8. All LEP clients shall be informed in their primary language that they can exercise the right to complain to the Managing Attorney or Deputy Director by utilizing

the telephone language service, which can be accessed by calling the LAWNY office.

VI. Translation of documents

- A. As noted above, all vital LAWNY forms will be available in Spanish (i.e., retainer agreement, statement of clients' rights and responsibilities, authorization for release of information and client grievance procedure). The list of vital forms will be reviewed annually by the LEP Coordinator to determine if revisions or additions are necessary.
- B. When providing legal services to LEP clients, LAWNY casehandlers will determine which written materials should be translated. Written materials shall be translated if necessary to ensure effective communication and client understanding. Copies of the translated documents in both English and the client's primary language should be maintained in the client's case file.
- C. The LAWNY casehandler will obtain translation services from bilingual LAWNY staff members, volunteers, community agencies or professional services, as appropriate. Each LAWNY office should maintain a list of qualified translators available in the community.
- D. LAWNY staff members are encouraged to use qualified translators, and this policy explicitly discourages the use of the LEP client's family members or friends. If an LEP client prefers to have a family member or friend provide translation services, the LAWNY staff member should follow the same procedure outlined in Section V(A)(5) above.
- E. When an LEP client indicates that he/she is unable to read in any language, the LAWNY casehandler will determine whether any written materials should be translated in order to ensure effective communication and client understanding. If the casehandler determines that certain materials should be translated, the method of sight translation should be employed. Sight translation involves a qualified translator reading the document and telling the client what the document says. The LAWNY casehandler should document in the case file that sight translation was utilized and should indicate which documents were translated using this method.

VII. Outreach

- A. For language groups constituting a significant percentage of the eligible client population, LAWNY will provide written translation of its brochures and other outreach materials.
- B. In LAWNY offices with a significant percentage of LEP client-eligible population within the service area, the Managing Attorney or Deputy Director and other staff will work with the LEP Coordinator to develop strategies to provide outreach to the LEP client-

eligible populations, working with other community groups and organizations as appropriate.

VIII. Quality assurance

- A. LAWNY's Executive Director will designate an LEP Coordinator to assist with implementation of the LEP Policy. The LEP Coordinator will ensure that LAWNY staff members receive training on the LEP policy, the language resources available and the procedures for accessing those resources, how to work with interpreters, and how to make services accessible to LEP clients.
- B. LAWNY will strive to ensure that interpretation services are of the highest quality and that written documents are translated accurately. Interpretation and translation services will be provided, to the fullest extent possible, by qualified individuals with an adequate education and background in both English and the client's primary language, an ability to communicate precisely (content and grammar), and a knowledge of the legal system, court and litigation processes and legal terminology.
- C. The LEP Coordinator will oversee LAWNY's efforts to ensure that bilingual staff who serve as interpreters or translators are sufficiently fluent in English and the LEP client's primary language to serve as interpreters or translators. LAWNY bilingual staff members who serve as interpreters or translators shall be offered appropriate training in the various methods of interpretation and translation and their proper use, as well as the ethical standards governing interpreters and translators.
- D. At the time of case closure and supervisory review and sign-off, supervisors will review each case to determine if the need for language services was addressed. In connection with the evaluation of the job performance of a LAWNY staff member who serves as an interpreter or translator, the additional responsibility of providing interpretation and/or translation services shall be considered. Compliance with the LEP policy shall be assessed as part of every staff member's evaluation.
- E. The LEP Coordinator will ensure that LAWNY reviews compliance and effectiveness of the LEP policy bi-annually. The census data regarding LEP populations throughout the LAWNY service area should also be reviewed at that time. In reviewing the LEP Policy, the LEP Coordinator should consult with the LEP Committee of the Intake Work Group.
- F. This policy was developed after reviewing several policies from other legal services programs, including three from programs in New York. LAWNY will continue to coordinate with other legal services programs statewide concerning LEP strategies through the Statewide Diversity Coalition, Statewide Training, Leadership Development and Diversity Work Group, and the New York State Project Directors Association.
- G. When conducting its annual priority review, LAWNY will pay particular attention to the legal services necessary to adequately serve the service area's eligible individuals with limited English proficiency and make adjustments as appropriate to LAWNY's priorities

if there is a variance between LAWNY's current priorities and the unmet legal needs of the LEP eligible population.