

LANGUAGE ACCESS POLICY

I. GENERAL POLICY

- A. **Policy.** CLS delivers quality legal services to clients in their preferred language. CLS shall provide language services as needed to ensure that limited English proficient (“LEP”) clients have meaningful access to CLS services.
- B. **Responsibility.** It is the responsibility of the program and not the client to ensure that communications between staff and clients are not impaired as a result of the limited English proficiency of the client.
- C. **Non-discrimination; supplemental services.** The program shall not provide legal services to LEP clients that are restricted, delayed or inferior as compared to services provided to English proficient clients. The program may need to provide supplemental services to LEP clients that would not ordinarily be provided to an English proficient client so that they can reasonably benefit from CLS services.
- D. **Notice.** CLS shall post waiting room notices in multiple languages that free bilingual or interpreting services are available, and CLS shall note on its website and in materials distributed to potential clients or to those who may refer clients that CLS will provide bilingual help or interpreters at no cost as needed and that immigration status is not relevant to determining client eligibility.

II. LANGUAGE DATA

- A. **Kemps.** All staff who open files or receive open files from other staff must ensure that the intake sheet and Kemps data correctly identify the primary language of the client and the need for an interpreter.
 - 1. **Primary Language:** A person’s preferred or primary language is the language in which they are most comfortable speaking. A client able to speak English may have a primary language other than English. If not obvious, the preferred or primary language should generally be chosen by the client herself. When in doubt as to which language is primary, enter the foreign language.
 - 2. **Interpreter box:** Check this box if the client is not fluent in English and therefore

needs interpreting or bilingual services to assure effective communication. A check mark signals the need for language services. The box should be checked for any client who cannot communicate *fluently* in English himself — regardless of whether past interpreting assistance was performed by CLS or some other party. Note that a client whose primary language is not English may or may not need an interpreter.

- B. **File notes.** All case handlers must make conspicuous notes in case files to indicate each client's primary language, the need for an interpreter, and whether correspondence and other documents should be translated.
- C. **File notes - translation.** Staff shall inquire of all LEP clients, and record in Kemps notes and on the file whether the client is able to *read* in English, read in her preferred language, and which language is preferred for written communication such as correspondence. This information is essential to determine when document translations are needed to assure good communications.
- D. **Timekeeping.** All time spent by bilingual staff providing language services in cases must be recorded in Kemps under the Interpreting activity code for the client's file. Time spent on language services not related to specific client files (e.g. interpreting at an outreach session or translating community education materials) must be recorded as well (the time can be charged to Special Grants - Language Access Project file number with the Interpreting activity code).

III. 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.
- B. **Status inquiry restriction.** Staff shall not inquire as to the citizenship or immigration status of a client unless it is directly 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. **SSN.** Clients are entitled to service without the need to provide a Social Security number. Staff should follow existing protocol to "create" the required last 4 digits for clients who do not have or decline to provide a SSN (see attached Pennsylvania Legal Services protocol).
- D. **Confidentiality.** When a client's status is relevant to the case or problem, staff are

required to treat it as privileged information not to be disclosed to third parties without the client's expressed consent. The consent must be documented in the file.

IV. BILINGUAL CASE HANDLERS

- A. **Bilingual case handlers preferred.** The preferred method of providing services to LEP clients is to use bilingual case handlers and support staff who are proficient in the client's preferred language. This method is much more efficient than the use of interpreters and translators.
- B. **Language sensitive case assignment.** Systems to assign clients to case handlers at intake and following intake should provide for assignment of clients to bilingual staff to the extent feasible, subject to controls to avoid overburdening bilingual staff, or creation of significant delays in service to clients based upon language ability.
- C. **Hiring.** CLS considers second language proficiency as a preferred quality in considering applicants for employment for all positions that have client contact. CLS seeks to enhance its ability to deliver services in multiple languages through the hiring of bilingual staff.
- D. **Workload adjustments.** Workload adjustments shall be made to reflect the additional work which may be required of bilingual and monolingual staff in delivering services to LEP clients.

V. DETERMINING NEED FOR LANGUAGE SERVICES

- A. **Types of language service:** Language services includes: assignment of bilingual advocates to LEP clients; interpreting by staff, contracted professional in-person and telephone based interpreters; volunteer community based interpreters; and translation services.
- B. **Initial assessment.** Staff at the point of first contact with clients shall make an initial assessment of the need for language services, and shall procure such services if they are needed to effectively communicate 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. **Subsequent assessment.** Case handlers who have subsequent contact with LEP clients shall review language needs.

- C. **Client request.** Language services shall be provided to any client upon request at no cost, unless it is apparent that the request is wholly unfounded.
1. Staff shall encourage LEP clients to use language services whenever there is any doubt as to the client's English language proficiency.
 2. Staff are prohibited from encouraging or requiring clients to bring others with them to interpret.
- D. **Staff decision.** Services shall also be provided when staff 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 the program's ability to provide quality legal services and may present ethical issues for the case handler.
1. In such cases, language services should be provided even if the client says it is not necessary.
 2. Staff may need to explain that language services will be provided to assist the case handler in providing quality legal services.
 3. Staff are encouraged to seek assistance from supervisory personnel or the Language Access Project to respond to such situations if difficulties are encountered.
- E. **Translation.** Translations shall be provided for LEP clients who can read better in languages other than English.
1. 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.
 2. Translations of client documents from another language into English shall be procured as needed. Should any question exist as to the nature or relevance of the document, staff should consider obtaining a sight (oral) translation first to determine if the cost of a written translation is justified.
- F. **Staff authority.** All staff are authorized to procure language services without the need for pre-approval from supervisory or administrative staff.

VI. WHO MAY PROVIDE LANGUAGE SERVICES

- A. **Program responsibility.** The program must assure that competent language services are provided at no cost to the client and as an essential component of providing quality legal services.
- B. **Staff language competency.** 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.
- C. **Preferences - interpreters.** Interpreting service should be provided in the following preferential order:
 - 1. 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 section IV of this policy;
 - 2. In house bilingual staff with interpreter training;
 - 3. Contracted professional in person or telephone based interpreters, the selection of which shall follow protocols for obtaining interpreter services;
 - 4. Community based organization or referring agency staff
 - a. Only at the insistence of the staff or client and after notice that CLS prefers to provide free in-house or contracted professional services;
 - b. Kemps notation of 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 the case handler.
 - a. Such interpreters are permissible only after notice of our willingness to provide free professional assistance and at the client's insistence, both of which must be documented in Kemps and reported to LAP.
 - b. It may be necessary for the advocate to bring in an interpreter in addition to or instead of that 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 or at the insistence of the client.
 - a. The circumstances must be documented in the file, in Kemps and reported to Language Access Project staff in writing. The client must also have been notified of the availability of free language services. It is recommended that this notice be provided with the assistance of an interpreter other than the child, including a telephone based interpreter.
 - b. It may be necessary for the advocate to bring in an interpreter in addition to or instead of that provided by the client when necessary to ensure good communication or to avoid a conflict of interest between the interpreter and the client.

D. **Training.** Staff must be trained before working with interpreters.

E. **Translations**

1. Translations should be done by in house staff when available, in accordance with the translation protocol.
2. Translations may also be done, in accordance with protocol, by contractors.
3. No preapproval is needed to procure translation services.

VII. SCOPE OF LANGUAGE SERVICES

A. **General rule.** Language services shall be provided to the extent necessary to assure the quality of legal services rendered while minimizing delay or discomfort to the client.

B. **Interpreting**

1. Conduit function. Interpreters are expected to function solely as a conduit between the advocate and the client. Advocates should not expect interpreters to communicate with the client in the absence of the advocate with the exception of in-house interpreters who ordinarily communicate directly with English speaking clients for others.

2. When required. Staff should use interpreters to communicate with LEP clients during telephone calls, for intake, and for client interviews and meetings.
3. Hearings. Monolingual advocates should consider the need to bring an interpreter to hearings to facilitate client communication even if a court interpreter will be present to interpret the proceedings.

C. Translations

1. Vital forms
 - a. CLS shall prepare and make available vital forms in an English/Spanish version, and obtain translations over time in other languages regularly encountered. The other languages shall be determined based on demographic, intake and other data and shall be reviewed periodically.
 - b. Examples: intake sheet; retainer agreement; release forms; and any forms signed by the client.
 - c. For other languages, staff should ensure that sight translation of English forms is provided in the client's preferred language.
2. Letters and other documents
 - a. Routine correspondence to the client and to others should generally be translated.
 - b. Translation of large documents such as a brief or bankruptcy petition should be provided at the discretion of the case handler, provided that any document that is to be signed by the client, at a minimum, shall be sight translated.
3. Community education - CLS shall undertake a process to translate all general client education materials into Spanish, and then into the other languages designated for vital forms.

VIII. TRAINING

- A. General rule:** CLS shall provide language access training to all existing staff who have

regular contact with clients and to all such newly hired staff.

- B. **Scope:** The training will cover this policy, protocols for use of language services, how to work with interpreters, and other topics that are needed.
- C. **Bilingual staff:** CLS shall provide training for bilingual staff who may be called upon to provide interpreting assistance to other staff on the techniques used in interpreting, interpreter ethics, and other topics as needed.

IX. MONITORING AND ASSESSMENT

A. Staff Responsibility

- 1. Staff assigned to the Language Access Project shall be primarily responsible for monitoring program compliance with this policy.
- 2. LAP staff shall report regularly to the Executive Director.

B. Client Needs and Program Resources

- 1. At least annually, CLS shall
 - a. generate intake statistics by primary language and by unit to determine the extent to which the program and its units are providing services to LEP clients
 - b. tabulate the number of bilingual staff on the payroll, and the number of languages spoken
 - c. tabulate the amount of staff time used to provide language services, the costs to procure outside language services and the extent to which services are utilized throughout the program
- 2. Every five years, CLS shall review available demographic data regarding the potentially eligible client population in terms of its linguistic makeup.
 - a. Such data will be compared to the existing client base to determine if apparent disparities exist
 - b. Legal management and the Language Access staff shall consider whether

special efforts are needed to provide greater service to underserved language groups

- C. **Annual Review.** The language access policy and the supporting protocols shall be reviewed annually and amended as needed.

Addenda:

1. Spanish and Cambodian Interpreting and Translating protocol
2. Language Services at CLS for Clients with Limited English Proficiency (protocol on telephone interpreting, in person interpreting and translation)
3. Quantum Request for Interpreting Services form
4. Language Line Document Translation Service Fax Order Form
5. CLS Staff Language Directory
6. Pennsylvania Legal Services Eligibility Manual excerpt: protocol for Developing an Unknown Social Security Number

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