

2022

**CalEPA Best Practices & Guidance on
Language Access Services for Persons
with Limited English Proficiency**



Adopted April 2022 by CalEPA



**Developed by the CalEPA Racial Equity Team:
Made up of Members from the Boards,
Departments, and Offices who represent
CalEPA's commitment to the Capital Collaborative
on Race and Equity (CCORE)**

Gavin Newsom
Governor

Jared Blumenfeld
Secretary for Environmental Protection



Table of Contents

About this Document	1
Introduction	2
PART I: Recommended Best Practices for Language Access	3
1. Investigate & Plan for Language Needs Early	3
2. Advertise Availability of Language Access Services	4
3. Use Qualified Professionals for Written Translation & Oral Interpretation	5
4. Use Bilingual Certified Personnel Appropriately	5
5. Thoughtfully Develop Contracts to Retain Highly Qualified Professionals & Include Critical Elements in Language Contracts	6
6. Use Appropriate Platform(s) for Intended Audience	7
PART II: Issues around Language Access & Development of this Guidance	8
California Languages	8
Limited Proficiency & Linguistic Isolation	8
Applicable Laws	10
Development of Guidance	15
Appendices	17
A. Language Access Working Group (2021)	17
B. Best Practices Summary Sheet	18



About this Document

The California Environmental Protection Agency’s Office of the Secretary (“CalEPA”) is adopting this guidance document to inform practices for providing language access services to members of the public with limited English proficiency served by CalEPA and its constituent boards, departments, and office (“BDOs”). CalEPA intends for the guidance to serve as a reference for staff within CalEPA and its BDOs. The guidance is informed by and at in some areas supplements existing policies and practices related to accessibility for persons of different abilities, as required by state and federal law.

While the guidance itself is not mandatory, certain of the measures it describes are legally required. The California Department of Human Resources (CalHR) also has guidance for agencies on how to interpret and implement state law regarding language services,¹ and this document provides additional guidance and best practices beyond the legal baseline.

CalEPA considers it a priority to provide language access services for subgroups in the deaf and hard-of-hearing community, those who have communication challenges, and those who are blind or low-vision, but such services¹ are outside the scope of this guidance, which focuses on language access services for limited-English-proficient persons.

This guidance is organized into two parts. The first part outlines best practices that are particularly helpful for improving language access for persons with limited English proficiency. The second part offers background information on limited English proficiency and language isolation, the laws on language access, and an overview of the development of this guidance document.

Staff with questions about the guidance, or recommendations for future versions of the guidance should contact the CalEPA Racial Equity Team’s Language Access Working Group at RacialEquityCalEPA@calepa.ca.gov. In addition, this guidance is housed on the [CalEPA Racial Equity website](#) in the Data and Resources Section of the website.

1 [CalHR, Human Resources Manual § 1003 – Bilingual Services](#)

Introduction

CalEPA's mission is to restore, protect and enhance the environment, and to ensure public health, environmental quality, and economic vitality. Advancing this mission requires providing public services and conveying information to, and collecting information from, a diverse range of Californians, including those with limited English proficiency.

CalEPA conducts most of its official business in English, but more than 200 languages and dialects are spoken in the State. According to Census estimates, approximately 7 million Californians – almost a fifth of the State's population – speak English “less than very well.” Many more may speak English, but feel uncomfortable communicating in it, particularly regarding issues as complicated and technical as those on which CalEPA often works.

CalEPA considers equity a core value and, among other things, is striving to overcome language barriers by making its documents and proceedings more accessible to those with limited English proficiency. This guidance offers best practices that agency staff should consider using to improve language accessibility. The best practices draw upon applicable laws; lessons CalEPA and the BDOs learned in the course of past work with persons with limited English proficiency; the deliberations of a cross-BDO language access working group that is one of five working groups that make up CalEPA Racial Equity Team; and feedback from key stakeholders.

If consistently and soundly followed, the best practices should help CalEPA and its constituent BDOs ensure that language access is provided to as many members of the public as practicable. But challenges will remain. Inevitably, there will be situations in which limited English proficiency continues to affect accessibility. Moreover, other sources of inequity – as varied as education levels and work- or family-related responsibilities that preclude attendance at public meetings – will compound accessibility challenges for some persons with limited English proficiency. CalEPA recognizes that the best practices set forth in this guide represent an important step toward ensuring greater language access, but that there are more steps yet ahead. CalEPA is committed to continuing to explore additional ways of enhancing language access services and promoting equity within state government.

PART I: Recommended Best Practices for Language Access

CalEPA adopts these six practices that were developed by the CalEPA Language Access Working Group. As described in this document, these practices include some legal requirements, as well as practices that go above and beyond what is required by law. CalEPA encourages the BDOs to implement the best practices, and to coordinate with CalEPA and each other to ensure the implementation is consistent and effective. The Language Access Working Group will review these best practices periodically and will update them as appropriate.

For more information on how and why these recommendations were reached, please review Part II of this guidance.

1. Investigate & Plan for Language Needs Early

- Plan to incorporate language needs in annual budgets, strategic planning, project planning, and timelines. These needs could include simultaneous oral interpretation and translation of written informational materials and correspondence, depending upon the needs of a substantial number of the public served by CalEPA and its BDOs regional and statewide offices.
- Collecting information on local language access needs can assist CalEPA in allocating resources, and in determining whether any relevant thresholds have been met.
- o Use mapping tools such as California Communities Environmental Health Screening Tool: CalEnviroScreen 4.0 (CalEnviroScreen). CalEnviroScreen allows users to identify the top three languages by census tract.
- o For projects in such communities, CalEPA and the BDOs should seek information on the need for language access services, for example by contacting community organizations, schools, places of worship, or offices of elected officials to identify languages spoken in the community. Most school district websites provide useful information on demographics, such as languages spoken by students and their families.
- Develop internal language access resources and protocol. An internal team with varied linguistic expertise can offer guidance and resources to staff engaged in written translation and oral interpretation. These resources could include stylesheets, sample reports, internal review chains, glossaries, and a list of expert colleagues across BDOs who could help swiftly answer translation questions, especially for sensitive, confidential, or embargoed materials. Putting tools and structures in place ahead of time makes staff more able to produce quality materials in the face of tight deadlines and emergencies.
- Prepare documents intended for public information and notice in plain language as much as practicable to ensure the

message reaches a diverse audience. This also makes it easier to translate the materials into other languages.

- Determine which languages are spoken by 5% or more of the public served.²
- When providing transcriptions of public meetings, determine if those transcriptions need to be in more than one language.

2. Advertise Availability of Language Access Services

- Create awareness of language access services. Often persons with limited English proficiency are not aware of these services, and thus do not participate in public meetings or workshops. However, these individuals are more likely to participate when public meeting notices are available in other languages, when interpretation services are available, and when there is a focused effort to share such information with limited English proficient individuals.
 - When conducting virtual meetings – which became commonplace during the COVID-19 pandemic – persons with limited English proficiency who typically participate in public meetings are not always aware of the availability of interpretation services for virtual meetings, or how to request them. It is therefore critical that staff understand and utilize available technology to reach limited-English-proficient individuals during virtual outreach and meetings.
- Key recommendations for advertisement include the following, which would focus on languages CalEPA and the BDOs deem appropriate, based on their knowledge of local communities and any applicable legal requirements:
 - o Prominently indicating the availability of interpretation services and translated documents at the top of meeting flyers. As resources allow, BDOs should consider sharing this information in the languages that meet the 5% threshold.
 - o Posting language access services information on websites, informational materials, and placards in public locations.
 - o Clearly indicate the process for requesting interpretation services and provide a date by which such services need to be requested, for example by providing a contact person with a phone number.
 - o Posting the Language Access Complaint Process required by the State Bilingual Services Act so that it is readily available and easy to access. Information on this can be found in Part II, Recordkeeping and Reporting Requirements.

² Five percent is an important threshold under the Dymally Alatorre Bilingual Services Act, as discussed below.

3. Use Qualified Professionals for Written Translation & Oral Interpretation

- Language access services cannot succeed without effective oral interpreters and translators. While accurate interpretations and translations can broaden access to an agency's information and decision-making, inaccurate interpretations can pose a liability for a government agency.
- Based on the requirements of state law and practical experience with past translators and interpreters:
 - o Use qualified, properly certified professionals to provide oral interpretation services for public meetings, for interactions with the public, such as board meetings, public meetings, public workshops, and other public events, to provide members of the public with limited-English-proficiency the ability to receive accurate information and submit public feedback. Professional interpreters receive on-going formal training followed by extensive testing of vocabularies. Being a native speaker in a second language does not alone qualify staff to serve as an interpreter at public meetings.
 - o For accuracy and legal purposes, use trained, properly certified professionals to translate vital documents such as public notices, fact sheets, PowerPoint presentations, notice of violations, and meeting flyers. Due to a range in fluency and proper knowledge of grammar, knowledge of a second language,

without the appropriate certification, does not qualify staff to translate written materials.

- Avoid using bilingual or multilingual employees without the proper certification as written translators. Using employees who are not properly certified to translate certain documents is also discouraged, as their speaking and writing abilities may vary and dialects, accents, and linguistic varieties may influence interpretation and communication.
- Use machine translators judiciously. If there is a budget constraint that limits the use of certified professional translators, CalEPA and BDO staff may wish to consider using machine translators with the supervision of a certified employee. They should be aware, however, that CalEPA has found that current machine translation technology does not always translate as effectively as certified translators. Machine translators often translate word-for-word, rather than for context, and as a result, in some instances, may fail to capture nuances and even critical information.

4. Use Bilingual Certified Personnel Appropriately

- Consider hiring more bilingual or multilingual staff. Outreach and engagement of non-English speaking communities is more effective with bilingual and multilingual staff. Encourage bilingual and multilingual staff who are able and willing to seek certification in oral interpretation and written translation skills to do so.

- CalHR offers bilingual state employees the opportunity to become certified through an exam. A passing score certifies the employee can effectively orally communicate information to persons with limited or no English proficiency in a particular language. To address budget constraints, BDOs can investigate whether assisting staff with obtaining professional credentials is a cost-effective alternative to contracting for those services.
- Bilingual certified employees can be used to assist members of the public who need assistance or information, support with meeting logistics, or general meeting support.³ Use of a properly certified interpreter may be required at administrative hearings and is encouraged for public meetings.
- Avoid the use of uncertified bilingual and multilingual employees as written translators. Use of bilingual and multilingual employees, without the proper certification, to translate vital documents is discouraged, as their vocabularies, grammar, and writing abilities can vary and may pose a liability.

³ All interpretation or translation work must be consistent with the employee's duty statement, and the employee must be in a designated position. Managers should consult with their human resources departments about the best ways to utilize the skills of bilingual and multilingual staff.

5. Thoughtfully Develop Contracts to Retain Highly Qualified Professionals & Include Critical Elements in Language Contracts

- Quality and accuracy of language services contractors should be a top priority. When developing a language services contract, it is critical to include subject matter experts on language services. Professional interpreters and translators are subject to specific codes of conduct, and should be well-trained in the skills, ethics, and subject-matter language, as well as meeting state requirements such as certification.
- CalEPA has found it is best to contract for both oral interpretation and written translation in the same contract from the same contractor. If the skillsets are separated, the retained contractor may not provide the necessary professional services for both skills.
- In addition, a contract should include the terms below:
 - o A contractor should hold certification through the American Translators Association (ATA) or a documented equivalent in order to translate written materials on behalf of a state agency.⁴ This requirement is met via a bachelor's degree in Translation and Interpretation from an American Translators Association approved school.

⁴ California Human Resources Manual – Bilingual Services.

- o CalEPA regards the certifications issued by the Judicial Council of the State of California and by the Administrative Office of the Court for United States District Courts to be the gold standard for interpreters. CalEPA has a longstanding practice of contracting only with interpreters who possess such a certification.⁵
- o A flexibility clause to cover language services not spelled out in the contract should be included. Given the critical role CalEPA and its BDOs play in emergency response efforts related to fires and natural disasters, multi-language or 24-hour multi-language telephone lines for three-way conference calls may be necessary to communicate important information.
- o The contractor also must be well versed in online platforms and how to provide simultaneous interpretation on various platforms.
- o Materials translated by contractors generally require internal review by properly certified employees before being approved and posted/published. Even the most qualified contractors may not be aware of internal practices, scientific or legal terminology, standards, stylistic preferences, or precedents when working on CalEPA/BDO materials. Be sure to budget time and resources for qualified CalEPA/BDO staff to check incoming translated materials to ensure they meet quality standards.

⁵ Interpretation services are often in high demand and may be challenging to procure. Information about finding a Judicial Council-qualified interpreter may be found at <https://www.courts.ca.gov/35273.htm>.

6. Use Appropriate Platform(s) for Intended Audience

- Appropriate platforms of various mediums and differing languages should be considered for communicating with the intended audience.
- Examples of different communication platforms include:
 - o Radio communications (e.g., Radio Bilingüe, a station featuring Spanish and three Indigenous languages based in the Central Valley; KJAY for Hmong programming).
 - o Communication via trusted community partner organizations (e.g., schools, religious organizations, and non-profits) that communicate in languages other than English.
 - o Door-to-door outreach and outreach at community events with bilingual staff, or with community organizations.
 - o Accessible videos on free platforms (e.g., YouTube) and social media postings in languages other than English.
- For visual platforms, develop icons/symbols instead of text, because some visuals/graphics are capable of conveying meaning across languages (such as stop signs).
- If utilizing online services, please consider using additional platforms and including a call-in number with interpretation services available.
- If allowing for public comment, provide opportunities for public comment via phone, with live interpretation available.

PART II: Issues around Language Access & Development of this Guidance

This Part provides important information to support the best practices, including regarding language use in California, the definition of persons with limited English proficiency, federal and state laws concerning language access, and the history of the creation and work of the CalEPA Racial Equity Team and its Language Access Working Group.

California Languages

The diversity of California is reflected linguistically. More than 200 languages and dialects are spoken in California and, according to Census estimates, nearly half (44 percent) of Californians ages five and older speak a language other than English at home.⁶ This linguistic diversity poses certain challenges for state agencies. Material numbers of Californians do not speak English and could struggle to receive information from or convey it to the state without the assistance of language access services.

The number of persons with limited English proficiency and the languages they primarily speak vary considerably from one part of

6 U.S. Census Bureau, 2019 American Community Survey 5-Year Estimates

the state to the next. While the Central Valley is home to communities of people who speak languages other than English, including a large population of Spanish speakers, the Central Valley and southern California are also home to about 350,000 Indigenous Oaxacans; this includes the indigenous groups of Mixtecs, Zapotecs, an Purépechas.⁷ These languages may be strictly oral, and may not have written forms.

Limited Proficiency & Linguistic Isolation

Language access literature often describes persons as having “limited English proficiency,” meaning that these persons consider a language other than English to be their primary language and they have a limited ability to read, speak, write or understand English. According to Census Bureau data, approximately 17.4 percent of Californians speak English less than “very well.”⁸

Limited English proficiency can lead to linguistic isolation.⁹ The Census Bureau defines linguistic isolation as referring to a household in which all individuals over the age of 14 speak a language other than English and none speaks English “very well.”¹⁰ Linguistic isolation may preclude persons from obtaining social services or medical care, or from understanding

7 Festivals, Oaxacan Immigrant Communities and Cultural Spaces Between Mexico and the United States: The Guelagueltas in California

8 Statewide Outreach and Communications Strategy

9 Linguistic Isolation | OEHHA

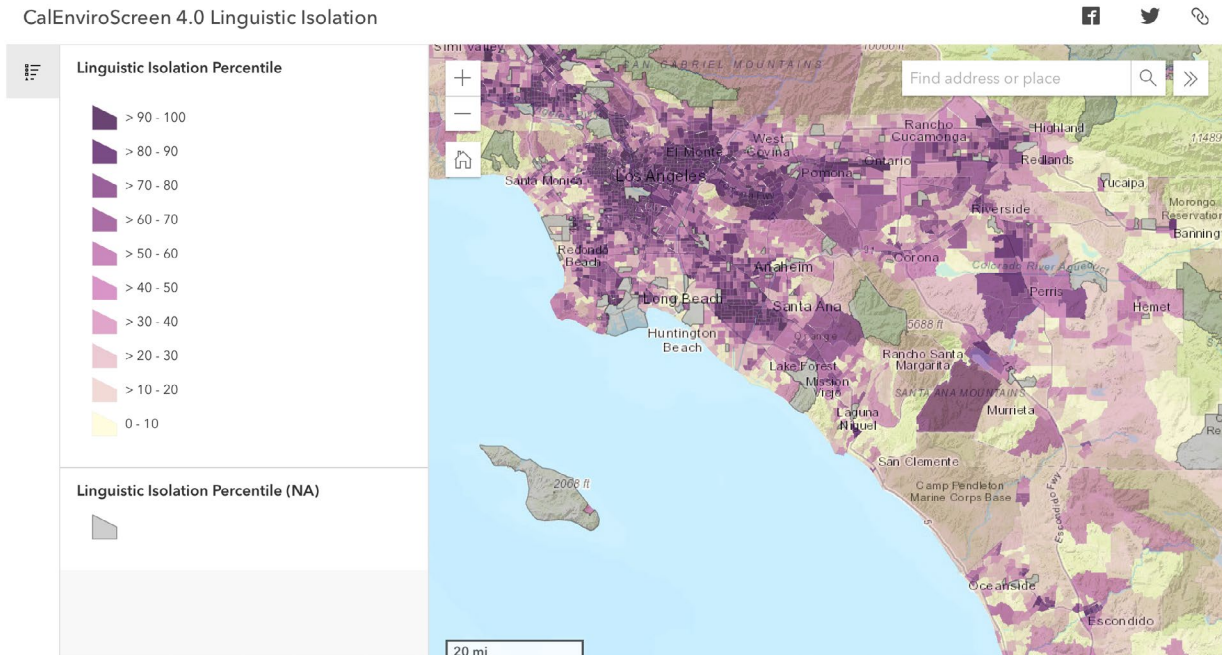
10 Language Use and Linguistic Isolation: Historical Data and Methodological Issues

important information when there is an emergency like an accidental chemical release or spill.

CalEnviroScreen 4.0 includes an indicator for linguistic isolation.¹¹ Its data is from 2015 to 2019. By clicking on a census tract and scrolling through the information in the popup window, you can view the top three languages in that tract. An example is below.

Darker shades of purple represent census tracts with a higher level of household linguistic isolation. Linguistic isolation is often particularly high in environmental justice communities, compounding concerns about access to health information, public services, and opportunities to engage with regulatory processes.

Figure 1: Percent Linguistic Isolation by County



11 CalEnviroScreen Indicators

Applicable Laws

Certain state and federal laws set a floor for the provision of language access services.¹² Broadly speaking, these laws fall into three general categories: (1) civil rights laws; (2) language access laws; and (3) state laws governing the qualifications and duties of translators and interpreters. If CalEPA or BDO staff have questions about these laws, they should consult counsel from their respective agencies.

1. Civil Rights Laws

a. Federal Civil Rights Laws

Title VI of the Civil Rights Act prohibits the exclusion from participation in, the denial of benefits of, and discrimination under any program or activity receiving federal financial assistance based on race, color, or national origin.¹³ U.S. EPA's Title VI implementing regulations recognize that a funding recipient may not "use criteria or methods of administering its program or activity which have the effect of subjecting individuals to discrimination because of ... national origin ... or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular ... national origin."

¹⁴ Where there is a connection between language and national origin, courts have recognized that the failure to provide

language access services can constitute discrimination on the basis of national origin if it would disproportionately disadvantage individuals of a particular national origin.¹⁵

In 2004, U.S. EPA adopted Title VI guidance on limited English proficiency.¹⁶ The guidance is not a regulation and does not directly impose requirements on funding recipients. However, U.S. EPA describes the guidance as "clarify[ing] existing legal requirements for [limited English proficient] persons" and "assist[ing] recipients in fulfilling their responsibilities to provide meaningful access to [limited English proficient] persons under existing law." Further, U.S. EPA states that it "expects" to use the criteria set forth in the guidance "in evaluating whether recipients are compliant

¹⁵ Lau v. Nichols (1974) 414 U.S. 563.

¹⁶ U.S. EPA, Guide to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 69 Fed. Reg. 35602 (June 25, 2004). U.S. EPA adopted the guidance pursuant to Executive Order 13166, which directs each federal agency to issue guidance pursuant to Title VI to ensure that recipients of federal financial assistance take reasonable steps to provide meaningful access to their programs and activities by limited English proficiency persons. Each federal agency has separate Title VI guidance that guides their funding recipients in complying with Title VI. Since most CalEPA BDOs likely receive federal funding from U.S. EPA, this section focuses on U.S. EPA's guidance. BDOs that receive funding from other federal agencies should consult those agencies' own Title VI guidance.

¹² These laws may apply differently to other State agencies than they do to CalEPA and the BDOs due to the nature of the services they provide.

¹³ 42 U.S.C. § 2000d et seq.

¹⁴ 40 C.F.R. § 7.35(b).

with Title VI and Title VI implementing regulations.”¹⁷ To the extent that U.S. EPA’s guidance is interpreted as setting forth the minimal requirements for compliance with Title VI, it would only apply to recipients of funding from U.S. EPA.¹⁸

The guidance recognizes that recipients have “flexibility ... in addressing the needs of the [limited English proficient] populations they serve,” and it recommends that recipients assess the extent of their language service obligations by conducting an assessment that balances four factors: (1) the number or proportion of limited English proficient persons to be served; (2) the frequency with which such persons come into contact with the recipient’s program; (3) the nature and importance of the program; and (4) the resources available to the recipient and

the cost of providing language access services. Regarding resources and costs, for instance, the guidance states that both “may have an impact on the nature of the steps [the recipient] should take,” and that “‘reasonable’ steps may cease to be reasonable where the costs imposed substantially exceed the benefits.”

The guidance provides that, after recipients assess their language access obligations, they “should develop an implementation plan to address the identified needs of the [limited English proficient] populations they serve.” The guidance recognizes that recipients have “flexibility” in the development of this plan, which “typically” includes five elements:

- Identification of persons with limited English proficiency with whom the funding recipient has contact;
- Information about how the funding recipient will provide language assistance to those persons with limited English proficiency;
- Staff training to ensure staff know about the funding recipient’s limited English proficiency policies and procedures, and that staff in contact with the public are trained to work effectively with interpreters;
- Identification of a method by which the funding recipient will notify persons with limited English proficiency of the availability of its language access services, and that they are free, which should be provided in a language the persons with limited English proficiency will understand; and

17 69 Fed. Reg. 35602, supra, at p. 35604.

18 In accordance with US EPA’s Title VI regulations, the term “recipient” is defined as “any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.” (40 C.F.R. § 7.25.) Additionally, US EPA defines “assistance” as “any grant or cooperative agreement, loan, contract (other than a procurement contract or a contract of insurance or guaranty) or any other arrangement by which EPA provides or otherwise makes available assistance in the form of: Funds; Services of personnel; or, Real or personal property or any interest in or use of such property, including: Transfers or leases of such property for less than fair market value or for reduced consideration; and Proceeds from a subsequent transfer or lease of such property if EPA’s share of its fair market value is not returned to EPA.” (Ibid.) Where any part of an agency receives funding from U.S. EPA, U.S. EPA’s Title VI guidance would then apply to all the operations of the entire agency. (See 40 C.F.R. § 7.25.)

- Identification of process and timetable for continuously evaluating whether new documents and programs need to be made accessible to persons with limited English proficiency, or whether the language access plan for persons with limited English proficiency should be updated.¹⁹

b. State Civil Rights Law

Like Title VI, California Government Code section 11135 prohibits discrimination on the basis of national origin. This requirement applies to state agencies. Failing to provide certain language services could result in a disparate impact on the basis of national origin, and could violate section 11135 in much the same way that it could Title VI.

B. State Language Access Laws

State language access laws address three general issues: (1) the provision of language access services; (2) the hiring of and qualifications for translators and interpreters; and (3) internal reporting requirements. The most significant of these laws is the Dymally Alatorre Bilingual Services Act (“Bilingual Services Act”).²⁰ However, it only requires agencies to comply with its terms to the extent funding is available.²¹ CalEPA and the BDOS must therefore exercise their discretion in

determining when funding is available and how to use existing funding.

1. Provision of Language Access Services

The Bilingual Services Act includes two provisions that impose language access obligations on state agencies. The first, found at Government Code section 7295.2, states:

Every state agency which serves a substantial number of non-English-speaking people and which provides materials in English explaining services shall also provide the same type of materials in any non-English language spoken by a substantial number of the public served by the agency. Whenever notice of the availability of materials explaining services available is given, orally or in writing, it shall be given in English and in the non-English language into which any materials have been translated. This section shall not be interpreted to require verbatim translations of any materials provided in English by a state agency.

The Bilingual Services Act defines “substantial number” as 5 percent or more of the population served by the agency statewide or at its local offices, and it defines “non-English-speaking person” essentially to mean a person with limited English proficiency.²²

19 69 Fed. Reg. 35602, supra, at pp. 35611-12.

20 Gov. Code § 7290 et seq.

21 Gov. Code § 7299.

22 Gov. Code § 7296.2.

The second provision, found at Government Code section 7295.4, states:

Whenever a state agency finds that the factors listed in both subdivisions (a) and (c) or (b) and (c) exist, it shall distribute the applicable written materials in the appropriate non-English language through its statewide and local offices or facilities to non-English-speaking persons, or, as an alternative, the state agency may instead elect to furnish translation aids, translation guides, or provide assistance, through use of a qualified bilingual person, at its statewide and local offices or facilities in completing English forms or questionnaires and in understanding English forms, letters, or notices:

(a) The written materials, whether forms, applications, questionnaires, letters, or notices solicit or require the furnishing of information from an individual or provide that individual with information.

(b) The information solicited, required, or furnished affects or may affect the individual's rights, duties, or privileges with regard to that agency's services or benefits.

(c) The statewide or local office or facility of the agency with which the individual is dealing, serves a substantial number of non-English-speaking persons.

For CalEPA and the BDOs, the language obligations under Government Code section 7295.4 are triggered not just when the agency is contacted by limited-English-proficient individuals, but also when the agency provides limited-English-proficient persons with information. In the latter situation, the statute would generally require CalEPA and the BDOs to “distribute the applicable written materials in the appropriate non-English language” or, alternatively, to “furnish translation aids, translation guides, or provide assistance” in the non-English language spoken by at least 5 percent of the public served by the agency.

2. Translators and Interpreters

Providing language access services requires the use of translators and interpreters. The Bilingual Services Act, CalHR, and union MOUs require agencies to use employees who possess the appropriate credentials.

As a starting point, the act requires State agencies to hire bilingual employees in sufficient numbers to serve the non-English-speaking persons served by the agency,²³ as vacancies and available funds allow. It states:

Every state agency, as defined in Section 11000, except the State Compensation Insurance Fund, directly involved in the furnishing of information or the rendering of services to the public whereby contact is made with a substantial number of non-English-speaking

23 Gov. Code § 7292, subd. (a).

people, shall employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services to the public, in the language of the non-English-speaking person.²⁴

However, the act places certain limits on this obligation, stating: “An employee of a state or local agency ... may not be dismissed to carry out the purposes of this chapter. A state or local public agency need only implement this chapter by filling employee public contact positions made vacant by retirement or normal attrition.”²⁵ In addition, the act clarifies that “[i]t is not the intent of the Legislature ... that all public contact positions be filled with qualified bilingual persons.”²⁶

Being bilingual does not in itself qualify an employee to provide language access services. An agency may only use an employee to communicate orally with the public in another language if that employee is in a position designated as bilingual by the agency and CalHR and certified through a process approved by CalHR.²⁷ An agency may only use an employee certified through the American Translators Association, or a documented equivalent, to translate written materials. Any use of state employees

as interpreters or translators is subject to certain labor laws, and the applicable collective bargaining unit memoranda of understanding, and entitles the employee used to a pay differential.

State agencies may also contract out language access services under certain circumstances,²⁸ when allowed by the Bilingual Services Act and consistent with state contracting laws.²⁹ Before entering into such a contract, an agency must submit the proposed contract to the State Personnel Board, which then must notify the employee bargaining units for comment.³⁰

3. Recordkeeping and Reporting Requirements

The Bilingual Services Act also directs agencies to comply with certain recordkeeping requirements.³¹ All State agencies must conduct a language survey of each of their offices every two years and report the survey results to the Department of Human Resources by October 1 of every even-numbered year.³² Each agency that serves a substantial number of non-English-speaking people must, unless exempted by the Department of Human Resources, also develop a plan, based on its most recent language survey, “that provides a detailed description of how the agency plans to

24 Gov. Code § 7292. The act defines “sufficient number” to mean the number required to provide the same level of services to non-English-speaking persons as is available to English-speaking persons seeking these services.

25 Gov. Code § 7294.

26 Gov. Code § 7299.8.

27 Additional requirements apply to interpreters used in State adjudicative proceedings.

28 Gov. Code § 7299.1.

29 E.g., Gov. Code, § 19130.

30 Gov. Code, §§ 19130, 19131.

31 U.S. EPA’s Title VI regulations include parallel recordkeeping and reporting requirements. 40 C.F.R. § 7.85(a) and (f)(2).

32 Gov. Code, § 7299.4, subs. (b) and (c).

address any deficiencies in meeting the requirements of this chapter, including, but not limited to, the failure to translate written materials or employ sufficient numbers of qualified bilingual employees in public contact positions at statewide and local offices, the proposed actions to be taken to address the deficiencies, and the proposed dates by when the deficiencies will be remedied,” and submit it to the Department of Human Resources for review on October 1 of each odd-numbered year.³³ Additionally, State agencies must post on their websites, and make available in their offices, forms and processes for filing complaints about violations of the Act in English and in all other languages spoken by at least five percent of the people served by the agency.³⁴

Development of Guidance

CalEPA Language Access Working Group

In 2017, CalEPA began participating in the State’s Government Alliance on Race and Equity Capitol Cohort.³⁵ The Government Alliance on Race and Equity is a national network of government agencies working to achieve racial equity and advance opportunities for all.³⁶ This led to the creation of the Strategic Growth Council’s Racial Equity Action Plan, and the Government Alliance for Race and

Equity Capital Cohort became the Capitol Collaborative on Race and Equity in 2020.

CalEPA convened twenty people with members from its BDOs, establishing the CalEPA Racial Equity Team. The team completed an organization-wide assessment on racial equity. In the assessment, the team identified certain strategies that could advance racial equity. One was to provide improved language access services.

The Racial Equity Team formed a working group focused on implementing the language access strategy. The Language Access Working Group developed the initial drafts of this guidance, including the best practices.³⁷

Root Cause Analysis

In 2019, the Language Access Working Group conducted a root cause analysis of the language access services provided by CalEPA and its BDOs.³⁸ The group learned that CalEPA and the BDOs provided varying levels of language access services, and that they could better serve individuals with limited English proficiency if they bolstered their language access services.

33 Gov. Code, § 7299.4.

34 Gov. Code, § 7299.3.

35 [Capitol Cohort Information](#)

36 [Racial Equity Alliance Information](#)

37 While race and language overlap at times, they are distinct legal issues. This guidance recounts the activities of the Racial Equity Team only to explain the origins of the guidance; it does not mean to conflate the issues.

38 A Root Causes Analysis draws on targeted questions and open ended discussion to arrive at the underlying causes of a problem. Root Cause Analyses rely on guiding questions and open discussion to identify the underlying causes of a problem or problems. It is helpful in distinguishing between primary and secondary causes.

Community Interviews

To pinpoint potential ways to improve language access services, the language access team conducted phone interviews with community groups that work closely with persons with limited English proficiency in the Eastern Coachella Valley, Fresno, Visalia, and Salinas. In the interviews, the community groups raised several issues related to language access. For instance, they said that, in certain instances, persons with limited English proficiency may not be aware of the availability of language access services, or of the procedure for requesting such services. And they identified unique challenges surrounding indigenous Latin Americans, whose primary languages may be oral and not have written forms.

The community groups also said that some persons with limited English proficiency may have relatively low levels of education attainment, and may struggle with technical documents, even when they are professionally translated. Further, CalEPA interpreted this point as a reminder that economic, social, and educational inequities may intersect with and compound one another. While bolstering language access services may address certain inequities, these services cannot, on their own, address all inequities that may affect communications between the agency and limited-English-proficient individuals served by the agency.

Appendices

Appendix A: Language Access Working Group (2021)

Alexis Carriker,
California Department of Pesticide Regulation

Julissa de Gonzalez,
California Department of Pesticide Regulation

Greg Gearheart,
State Water Resources Control Board

Julian Leichty,
Office of Environmental Health Hazard Assessment

Samar Lichtenstein,
California Air Resources Board

Anna Pelz,
CalEPA Intern

Marina Pérez,
State Water Resources Control Board

Mandy Roman,
State Water Resources Control Board

Deldi Reyes,
CalEPA/California Air Resources Board

John Swanton,
California Air Resources Board

Paul Verke,
California Department of Pesticide Regulation

Appendix B: Best Practices Summary Sheet

1. Investigate and Plan for Language Needs Early

- Incorporate language needs in budgets, strategic planning, and timelines
- Use mapping tools and community organizations to identify key demographic information, including languages spoken by at least 5% of those served by CalEPA/BDO local and statewide offices. This can inform language outreach, resource allocation, and language access thresholds
- Prepare public facing documents in plain language

2. Advertise Availability of Language Access Services

- Post language access services information on websites, informational materials, and placards, in languages CalEPA and the BDOs deem appropriate, based on knowledge of local communities and any applicable legal requirements
 - Clearly indicate the process, and provide a contact person with a phone number

3. Use Qualified Professionals for Written Translation and Oral Interpretation

- Translation of documents should be completed by trained, certified professionals
- Certified, professional interpreters should be used by CalEPA and its constituent BDOs during board meetings, public meetings/workshops, and events. Use of a properly certified interpreter may be required at administrative hearings.

4. Use Bilingual and Multilingual Certified Personnel Appropriately

- Bilingual and multilingual, certified employees can be used to assist members of the public who need assistance or information, support with meeting logistics, or general meeting support
- Avoid the use of bilingual and multilingual employees who are not properly certified as written translators, as their vocabularies, grammar and writing abilities can vary and may pose a liability.
- Use bilingual and multilingual, certified staff for outreach and engagement of non-English speaking mono-lingual communities

5. Thoughtfully Develop Contracts to Retain Highly Qualified Professionals and Include Critical Elements in Language Contracts

- Quality and accuracy of language services contractors should be a top priority
- Require appropriate certifications
- Contracts should include dual-language capabilities for web platforms
- Provide a flexibility clause in contracts
- Include multiple languages in contract
- When possible, use one contract for both written translation and oral interpretation

6. Use Appropriate Platform(s) for the Program's Intended Audience

- Reach communities via radio, social media, trusted community partners, and direct outreach methods



California Environmental Protection Agency

1001 I Street
P.O. Box 2815
Sacramento, CA 95812
(916) 323-2514
calepa.ca.gov