

**City of Durham**  
**DRAFT Language Access Plan- May 2019**

**I. Purpose and Background**

This Language Access Plan serves as a management tool to ensure compliance with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance, including a local government and its departments, from discriminating on the basis of race, color or national origin in the provision of any program or activity. The federal government interprets discrimination based upon national origin to include failure to ensure that persons who have “*limited English proficiency*” (LEP) can effectively participate in, or benefit from, federally assisted programs. Therefore, persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write or understand English may be entitled to language assistance under Title VI in order to receive a particular service, benefit, or encounter.

The United States Department of Justice has published the *Language Access Assessment and Planning (LAAP) Tool for Federally Conducted and Federally Assisted Programs* to provide language access guidance for agencies that receive federal financial assistance. Pursuant to that guidance, the City of Durham has adopted this Language Access Plan and included policy directives to ensure meaningful access to its programs and activities by LEP persons, as well as to provide better and more widespread communication with the members of the Durham community.

The primary purposes of this Language Access Plan (LAP) are to serve as a commitment on the part of the City of Durham to effectively communicate with broader segments of the Durham public and to provide a foundation for a uniform and citywide policy to provide meaningful access and serve persons who are LEP.

**II. Scope of Policy**

This Plan will apply to the City of Durham, including sub-recipients, as may be defined under federal program requirements. The City will also ensure that LEP individuals are provided meaningful access to benefits and services

provided through contractors or service providers receiving applicable sub-grants from the City.

### **III. Definitions**

*Limited English Proficient (LEP) individual* – Any prospective, potential or actual recipient of benefits or services from the City who cannot speak, read, write or understand the English language at a level that permits them to interact effectively with the provider of services.

*Vital documents* – Any documents that are critical for ensuring meaningful access to the City’s major activities and programs by beneficiaries generally and LEP persons specifically. Whether or not a document (or the information it solicits) is “vital” may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner. Such documents may include, but are not limited to:

- applications and consent forms;
- program related compliance plans;
- fair housing information;
- citizen participation plans and letters containing important information regarding participation in a program;
- notices pertaining to the reduction, denial, or termination of services or benefits, the right to appeal such actions, or that require a response from the beneficiary, and
- notices advising LEP persons of the availability of free language assistance.

Programs will be assessed by the City periodically and across various activities to determine what documents are “vital” to the meaningful access of the LEP population they serve.

*Substantial number of LEP* – 5% or 1,000 people, whichever is smaller, and are potential applicants or recipients of City services and speak a primary language other than English and have limited English proficiency.

*Meaningful Access* – The ability to use services and benefits comparable to those enjoyed by members of the mainstream cultures. It is achieved by eliminating communication barriers and ensuring that the client or potential

client can communicate effectively.

#### **IV. Person/Department Responsible for Plan oversight, Implementation and Compliance**

The City Manager shall assign appropriate resources to facilitate access to City services and programming and serve LEP persons.

#### **V. Identification and Assessment of LEP communities**

The City enjoys strong relationships with communities of various ethnicities and races. As such, it is committed to ensuring equal access to City services and programming to as broad a cross-section of the Durham Community as possible.

As recommended in the Federal LAAP tool, this Plan provides guidance for the City in meeting the needs of distinct populations that are considered to be LEP in “substantial number,” which is defined as 5% or 1,000 people, whichever is smaller, who are potential applicants or recipients of services and programs provided by the City of Durham. According to citydata.com, Durham’s population as of 2016 reflects the following: White: 39.4% (103,678); Black: 37.9% (99,633); **Hispanic: 14.3% (37,672); Asian: 5.3% (13,885)**; other races: 3%. Based on 2016 U.S. Census Bureau data (American Community Survey,) the most common language spoken in LEP households in Durham where the related population also meets the “substantial number” criteria is Spanish. Durham LEP residents whose primary language is Spanish number approximately **4,828 persons or 4.54% of Durham’s population**. The next most prevalent LEP household languages in Durham include Mandarin and Cantonese, which, taken together, are spoken in approximately 385 LEP households, which is less than 1% (.036%) of Durham’s population.

##### **A. Frequency of Contacts**

Based on a self-assessment to discover how often City departments serve LEP residents and their respective method(s) of communicating with these individuals, the following was concluded:

- Four departments/divisions have five or more interactions with LEP residents on a weekly basis, including one department with up to 200 interactions;
- Fire and Police Departments interact with LEP individuals daily;

- Two departments formally track LEP interactions (NIS and DPR);
- The lack of translated written materials and signage were noted as barriers to effective communication with LEP individuals;
- Six departments noted that they experienced culture-related difficulties in communicating with LEP residents even though they provided interpreters;
- Twenty-two departments utilize bilingual employees to translate or interpret materials/conversations, noting that this method is challenging because it disrupts the bilingual employees' core job responsibilities;
- Ten departments have utilized telephonic translation services;
- Two departments have contracted with in-person interpreting services; and
- Five departments have partnered with community volunteers or nonprofit organizations to provide translation/interpretation services. In addition to the self-assessment, the City also hosted a focus group+ session where 10 residents whose primary language is Spanish provided insight based on their experiences accessing or attempting to access a City program or activity. According to this focus group, Spanish-speaking LEP residents sometimes encounter a variety of barriers, including:
  - Lack of interpreters or bilingual personnel who can provide immediate service, especially at the administrative level;
  - Fear and lack of trust when providing sensitive information to staff;
  - Poor quality of interpretation services provided by staff; and
  - Lack of knowledge and understanding regarding municipal processes and procedures.

**B. Provision of Notice to Spanish-Speaking LEP Applicants/Recipients**

The City of Durham will take appropriate steps to inform all applicants, recipients, community organizations and other interested persons, particularly those whose primary language is Spanish, of the provisions of this Plan.

**C. All City departments have a responsibility to ensure compliance with the LAP.**

**D. Locations within the City where signs will be posted:**

Title VI information posters shall be prominently and publicly displayed in waiting/reception areas in buildings where a department operates, when possible. Other Spanish language identification signs will be posted in visible areas to inform residents and program participants of their right to free Spanish language assistance services, invite them to request Spanish language assistance, and inform them of the process for filing a complaint if Spanish language services are not provided in accordance with the Plan.

Similarly, the City will include a statement in outreach material that invites participation in federally funded services and programs, informs participants of their right to free Spanish language assistance services, invites them to request Spanish language assistance, and informs participants of the process for filing a complaint if Spanish language services are not provided in accordance with the Plan. This statement in outreach materials will not be included in outreach materials that are available in Spanish and, thus, accessible for Spanish-speaking LEP residents.

Public dissemination may also include the City's website, government television, broadly distributed brochures/pamphlets, signage and announcements on buses (e.g. posters inside vehicles), the insertion of Title VI language in contracts when appropriate, and the annual publishing of the Title VI Policy statement in the City's newspaper of record.

**E. Provision of Services to LEP Applicants/Recipients**

*1. Assessing linguistic needs of Potential Applicants and Recipients:*

City departments will assess the language needs of the population to be served by identifying:

- a. The language needs of each LEP applicant/recipient;
- b. The points of contact where language assistance is needed;
- c. The resources needed to provide effective language assistance, including the location, availability and arrangements necessary for timely use; and
- d. Other assessment tools, including feedback from community surveys and community engagement interactions.

2. *Determining the language needs of the population(s) to be served:*

The City will conduct annual assessments to include:

- a. Population statistics obtained from the Census or the American City Database.
- b. An assessment of the number of people in the community whose primary language is a language other than English and who have limited English proficiency. To identify the languages and the number of LEP individuals who speak these languages, the City will review the following:
  - Census data,
  - School system data, and/or
  - Reports from federal, state and local governments

3. *Determining the Language Needs of Each Applicant/Recipient:*

The City is committed to complying with Title VI, which requires that it provide language assistance to LEP foreign language speakers who comprise a “substantial number” of Durham residents. According to current demographics and data, that means that the City has a legal obligation to provide language assistance to LEP residents whose primary language is Spanish and do not speak English very well. The City may also use a designated language service provider for interpretation and/or translation assistance for LEP residents who speak a language other than Spanish when it is feasible and resources allow.

At the first point of contact, to determine the language needs of the applicant/recipient, the City representative may:

- a. Use multi-language identification cards or a language list to determine the customer’s preferred language.
- b. Contact a language service provider contracted by the City
- c. Request the assistance of bi-lingual or multi-lingual employees.

Staff will not solely rely on their own assessment of the English proficiency of the applicant or recipient in determining the need for an interpreter. If an individual requests an interpreter, an interpreter may be provided, either with internal resources (multi-lingual employees) or a language service identified by the City. The client’s own declaration of his/her language preference will be used to establish the client’s primary

language.

4. *Provision of Bilingual/Interpretive Services*

The City will ensure that effective bilingual interpretive services are provided to serve the needs of the non-English speaking population. The provision of bilingual interpretive services will be prompt without undue delays. This requires language services to be available during all normal operating hours, unless impractical. This requirement may be met by one of the following:

- a. An interpretation and translation service(s) that provides service 24 hours a day, 7 days a week, as contracted or otherwise procured by the City;
- b. Bi-lingual employees currently employed by the City.
- c. Individuals or organizations in the community that provide interpretation services will be maintained for scheduled meetings and events. Departments are responsible for securing and paying for these services.

**F. Interpreter Standards**

1. Those providing bilingual/interpretive services will meet the linguistic and cultural competency standards set forth below. The City will ensure that the interpreters and designated staff (and contractors) have received proper screening. Approved language providers must be able to:
  - a. Fluently and effectively communicate in both English and the primary language of the LEP individual;
  - b. Accurately and impartially interpret to and from such languages from English;
  - c. Have a basic knowledge of specialized terms and concepts used frequently in the provision of the City's services;
  - d. Understand the obligation to maintain confidentiality; and
  - e. Understand the roles of interpreters and the ethics associated with being an interpreter.
2. The Human Resources Department will provide testing to ensure the competency of staff who receives Language Incentive Pay in accordance with City policy HRM-406.

3. When staff members have reason to believe that an interpreter is not qualified or not properly trained to serve as an interpreter, the staff member may request another interpreter.
4. Using family members or friends as interpreters.
  - a. Applicants/recipients may provide their own interpreter; however the City representative will not require them to do so.
  - b. The City representative will first inform an LEP person, in the primary language of the LEP person, of the right to free interpreter services and the potential problems for ineffective communication. If the LEP person declines such services and prefers to provide an interpreter (family or friend), the person may be used only if it would not compromise the effectiveness of services or violate the LEP person's confidentiality. (*The City's language service provider may be used in order to inform the LEP person of their rights and responsibilities and the confidentiality concerns.*)
  - c. The City staff person will document that an offer of interpreter services was made and rejected, that the individual was informed of potential problems associated with using friends and family members, and will document the name of the person serving as an interpreter at the LEP person's request.
  - d. Only under extenuating circumstances shall the City allow a minor (under 18) to act as interpreter. The City will keep a written record of when LEP persons use a minor as an interpreter, and this information will be shared with the Title VI coordinator upon request and maintained as per the State retention guidelines.
5. The City will not require the applicant/recipient to pay for bilingual interpretive services.

#### **G. Provision of Written Translation**

1. Vital Documents
  - a. The City will ensure that vital documents for local programs and services are translated in Spanish – meeting the Title VI rule for provision of translated materials when there are a “*substantial number*” (defined as 5 percent or 1,000 people, whichever is less) of



potential applicants or recipients. Examples include, but are not limited to:

- Brochures that provide information about City services, policies, ADA services, etc., and are necessary to effectively use these services;
  - Application forms to qualify for reduced service costs, ADA paratransit, and other specialized services;
  - Public notices related to Planning activities, as well as vital Planning documents;
  - Title VI statements;
  - Emergency Preparedness information for the public;
  - Housing program applications and information; and
  - Citizen participation policies.
- b. When vital documents are forms requiring completion by the applicant or recipient, instructions regarding information to be inserted in the forms will be in Spanish.
- c. For some documents, the English language version is the official, controlling legal document. In such cases, the translation may be a convenience for understanding, but it will not be the official document.
- d. If the primary language of an LEP applicant or recipient does not meet the threshold as defined above, the LEP individual, through the use of the contracted language service provider, may be informed in their own language of the right to free oral translation of written notices.

#### **H. Documentation of Applicant/Recipient Records**

1. The City will maintain documentation in sufficient detail to permit a reviewer to determine the City's compliance with this policy.
2. The City will ensure that the record or documentation includes the following:
  - a. The recipient/applicant's ethnic origin and primary language (this may be difficult to get, because some applicants might be sensitive

about providing this information for public records.) In those cases in which the applicant is non-English speaking, the City will:

- Document the individual's acceptance or refusal of forms or other written materials offered in the individual's primary language.
- Document the method used to provide services, e.g., assigned worker is bilingual, other bilingual employee served as an interpreter, or the client provided an interpreter.

- b. Consent for the release of information will be obtained from applicants/recipients when individuals other than City employees are used as interpreters and the documentation reflects when this occurs.

## **VI. Staff Development and Training**

1. The City will provide staff training on the Language Access Policy on the City's training software, which will include, but not be limited to:
  - a. Language assistance policy and procedures, resources available to support such procedures, methods of effective use of interpreters, and familiarization with the discrimination complaint process.
  - b. Cultural awareness information including specific cultural characteristics of the groups served by the agency to provide a better understanding of, and sensitivity to, the various cultural groups to provide for more sensitive and better delivery of services.
2. The City will provide for the training of bilingual staff used as interpreters and/or translators by the City. Training will include the ethics of interpreting, confidentiality duties and issues; methods of interpreting orientation to the organization, specialized terminology used by the City, and cultural competency.
3. The City will ensure that applicable sub-recipients and other entities receiving state or federal dollars receive information regarding the requirements of this policy.

## **VII. Compliance Procedures, Reporting and Monitoring**

### **A. Reporting**

1. Each year, the City Manager will prepare an annual compliance report and compile a final report of services provided.

2. The reporting year shall run from July 1<sup>st</sup> to June 30<sup>th</sup> each year (concurrent with the City's fiscal year).

**B. Applicant/Recipient complaints of Discriminatory Treatment**

1. Complaints

All complaints of discrimination on the basis LEP status or a failure to adequately provide services in accordance with this policy should be directed to the City Manager. Complaints will be accepted in written or verbal form, and must contain the following information: the name and address of the person filing the complaint or his/her designee, and a brief description of the alleged act of discrimination and/or violation of this policy. Should a complainant be unable to complete a written form, assistance will be provided by staff. The complainant will be required to read the staff-prepared complaint and sign and date the transcript of the verbal complaint. Refusal to sign the complaint will result in the administrative closure of the complaint. No unsigned, undated complaint will be considered. Records shall be maintained of any complaint filed, the date of filing, action(s) taken with respect to each complaint files, and resolution.

2. Investigations

- a. The City Manager will handle the investigation of complaints.
- b. The investigation will not exceed 30 days, unless extenuating circumstances apply.
- c. Results and determinations of investigations will be provided to the person or person(s) filing the complaint of discriminatory treatment.