

North Carolina Department of Transportation

Office of Civil Rights

TITLE VI NONDISCRIMINATION PROGRAM

2024 LIMITED ENGLISH PROFICIENCY PLAN



NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

LANGUAGE ASSISTANCE PLAN

Limited English Proficiency Plan

The North Carolina Department of Transportation's (NCDOT) Limited English Proficiency Plan ("LEP Plan," "Language Assistance Plan," or the "Plan") was developed to ensure equal access to NCDOT programs and services for persons with limited English proficiency (LEP). LEP persons are defined as individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. These individuals have reported to the U.S. Census that they speak English *less than very well*.

Authority

The legal basis for this Plan extends back to Title VI of the Civil Rights Act of 1964 ("Title VI"). Title VI prohibits recipients of Federal financial assistance from excluding or discriminating against individuals on the ground of race, color, or national origin. The U.S. Supreme Court determined that excluding participants due to their inability to speak English may constitute discrimination on the basis of national origin (*Lau v. Nichols*, 414 U.S. 563 (1974); Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d).

On August 11, 2000, Executive Order (EO) 13166, "*Improving Access to Services for Persons with Limited English Proficiency*," was issued to improve access to federal programs and activities for persons who, typically because of national origin, are limited English proficient. The EO directs each Federal agency to provide guidance and technical assistance on how meaningful access will be offered to LEP persons, improve language accessibility in all programs and activities, and reduce language barriers by implementing consistent standards of language assistance. Accordingly, on December 14, 2005, the U.S. Department of Transportation (US DOT) published its "*Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons*," which is the primary source for the development of this LEP Plan.

Consistent with the Civil Rights Restoration Act of 1987, the requirement to provide meaningful access to LEP persons is not limited to specific programs or activities receiving federal funds; rather, coverage extends to all NCDOT programs and activities, whether federally-assisted or not.

Purpose

The NCDOT is committed to providing equal opportunity in all programs and services, and recognizes that Title VI and EO 13166 require nondiscrimination based on national origin and LEP. The purpose of this Plan is to ensure compliance with Title VI and other applicable federal and state guidelines relative to LEP persons.

As a federal-aid recipient, the Department is aware of its obligation to provide language assistance to LEP persons who are eligible to be served or likely to be encountered or affected by Departmental programs, services and activities. It is the operating policy of this agency to fully serve LEP persons/groups as they may encounter barriers to understanding and exercising their rights and accessing program benefits or services. Any individual eligible to participate in or benefit from an NCDOT program or service who cannot speak, read, write or understand English to the extent that he/she may be denied program access or service delivery has the right to language assistance at no cost to them. Administrative methods or procedures, which have the

effect of subjecting individuals to discrimination or defeating the objectives of these regulations, are prohibited.

Scope of Policy

These requirements apply to the NCDOT and its contractors, vendors, and subrecipients (including sub-grantees). All NCDOT programs and activities, as well as subrecipients and contractors using funds received from NCDOT, must take adequate steps to ensure meaningful access by LEP persons. Subrecipients can ensure that LEP persons have meaningful access to their programs and activities by developing and implementing an LEP Plan in accordance with USDOT LEP guidelines. Certain grantees or subrecipients, such as those serving very few LEP persons may choose not to develop a written LEP Plan. However, the absence of an LEP Plan does not preclude the underlying obligation to ensure meaningful access by LEP persons to a grantee's program or activities. Subrecipients not required to prepare a written language assistance plan, based on not meeting the safe harbor threshold, will still need to demonstrate a documented process for ensuring meaningful access.

The Department will consider the following four factors when ensuring meaningful access to LEP persons: 1) the number of LEP persons to be served; 2) the frequency with which LEP persons come into contact with services; 3) the nature and importance of services provided; and 4) the costs and resources available to NCDOT. This Plan defines the Department's responsibilities to ensure LEP persons can participate and benefit effectively.

Definitions

Limited English Proficient (LEP) persons – individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.

Meaningful access (or involvement) – means people have an opportunity to participate in decisions about activities that may affect their environment and/or health; the public's contribution can influence the regulatory agency's decision; community concerns will be considered in the decision making process; and decision makers will seek out and facilitate the involvement of those potentially affected.

Vital Documents and Information – includes, but are not limited to, applications, consent forms, meeting notices and other outreach materials, and information advising LEP persons of their rights and the availability of free language assistance. For lengthy documents, only vital information needs to be translated (e.g., the Executive Summary in an Environmental Impact Statement).

Translation –the written transfer of a message from one language to another language.

Interpretation – the oral or spoken transfer of a message from one language to another language.

Safe Harbor Threshold for Translation: 5% or 1,000 people, whichever is less, used to determine if, at a minimum, written translation should be provided. If there are fewer than 50 persons in a language group that reaches the 5% trigger, vital written materials do not have to be translated. However, written notice of the right to receive competent oral interpretation of those written materials must be provided, free of cost, in the primary language of the LEP language group.

Language Access Assessments – a survey used to collect information about the types and frequency of contacts with limited English proficient (LEP) individuals.

Providing Notice to LEP Persons/Groups

- A. The Department will take appropriate steps to inform all beneficiaries, applicants, recipients, community organizations, and other interested persons, including those whose primary language is other than English, of their rights under Title VI and related nondiscrimination laws. Such notification will include the following contact information: NCDOT Office of Civil Rights, Title VI Program, 1511 Mail Service Center, Raleigh, NC 27699-1511, 919-508-1808.
- B. The Department will post and maintain important information in “likely to be encountered” languages other than English in waiting rooms, reception areas and other initial points of contact, including on its website, and disseminate information to significant language groups, when appropriate. NCDOT will inform applicants, participants and beneficiaries of their right to free language assistance services and invite them to identify themselves as persons needing such services.
- C. The Department will include statements of the right to free language assistance in Spanish and other significant languages in all vital outreach material that is routinely disseminated to the public (including electronic text).

Language Access Assessments

NCDOT recognizes that full compliance at all levels of programs and activities with regard to LEP groups will require a series of implementing actions over time. Language access assessments and planning tools will be utilized to ensure that NCDOT communicates effectively with LEP individuals. As part of this process, a self-assessment will be conducted to determine what types of contact are (or should be) occurring with LEP persons by NCDOT program officials, how often, and the resources available (or needed) to provide LEP persons meaningful access to Departmental programs and information. NCDOT will need to develop a schedule of steps necessary to conduct the assessment and develop or revise Departmental language assistance policy directives, plans, procedures, and tools. The NCDOT Office of Civil Rights will oversee LEP planning, implementation, enforcement, evaluation, and updates, including monitoring Departmental compliance with language assistance requirements.

The following four factors will be analyzed as part of the Department’s LEP self-assessment:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or recipient;
- The frequency with which LEP persons come into contact with the program;
- The nature and importance of the program, activity or service provided by the program to people’s lives; and
- The resources available to the recipient for LEP outreach, as well as the costs associated with that outreach.

General N.C. LEP Figures: According to the 2018-2022 American Community Survey (ACS), 5-year estimates:

- Of North Carolina’s estimated population of 9,880,447 people 5 years and over, 12.3% (approx. 1,216,618 individuals) do not speak English only. This number was 10.8% in 2014.
- Of the 1,216,618 individuals 5 years and over who do not speak English only, 37.1% speak English “less than very well,” a modest decrease from 45.4% in 2014.

- Among the population 5 years and over, the most widely represented non-English language groups in N.C. are Spanish, Chinese, German, Arabic, Vietnamese, and French (including Haitian or Creole).
- Persons identifying as Hispanic or Latino make up 10% of the state’s population. Of the 1,216,618 persons 5 years and over who do not speak English only, 63.7% (approx. 774,886) speak Spanish, and of those 40.5% speak English “less than very well,” down from 51.7% in 2014.
- According to the Migration Policy Institute (MPI), 42% of the foreign-born population in N.C., are LEP persons. Additionally, the state’s LEP population increased by 73.3% from 2000-2022 after increasing by 527% from 1990-2000.
- Most LEP persons in N.C. are concentrated near the state’s major metropolitan areas, as indicated below.

| | Total Limited English Proficiency* Population in North Carolina | | |
|---------------------------|---|--|--|
| Highlighted Service Areas | Population Five Years Old and Greater | Number of Limited English Proficient Persons | Total Percentage of Limited English Proficient Persons |
| Durham County | 305,519 | 22,206 | 7.3% |
| Forsyth County | 361,789 | 19,938 | 5.5% |
| Guilford County | 509,207 | 29,316 | 5.8% |
| Wake County | 1,065,994 | 61,059 | 5.7% |
| Mecklenburg County | 1,044,121 | 94,760 | 9.1% |
| North Carolina | 9,880,447 | 451,823 | 4.6% |

US Census, 2018-2022 ACS 5-Year Estimates, *Speaks English “less than well”.

The Department recognizes the U.S. Census is merely an estimate and multiple resources may need to be consulted to accurately determine the number and location of LEP persons in a geography. Equally, minority, low-income, and LEP populations have historically been undercounted by the Census. While not every person can be identified using the Census, each LEP analysis will typically begin with a review of Census data, which is often the best data available at the state level. According to 2022 American Community Survey estimates from the US Census Bureau, no LEP language group meets 5% of North Carolina’s statewide population, but many LEP groups have at least 1,000 total persons statewide who speak English *less than very well*. Given the State’s large total population and NCDOT’s 14 Highway Divisions, the Department will primarily collect and analyze LEP data at the Divisional and project level.

NCDOT will determine which Departmental programs and projects are likely to encounter, serve, impact, or educate LEP persons and ensure appropriate resources are available to those areas and activities. This will enable program officials to discern when heightened responsibility to ensure meaningful access applies.

Below are several Departmental program areas that are likely to encounter or provide important services to LEP persons across the state:

- Division of Motor Vehicles
- Office of Civil Rights
- Communications Office
- Division of Highways (14 Divisions)
- Transit, Public Transportation Division
- Governor’s Highway Safety Program
- Project Development (Environmental Analysis)

- Right of Way Unit

The results of the Language Access Assessment (self-assessment) will be used to estimate what financial (costs) and nonfinancial resources are necessary to provide written translation, oral interpretation and other language services to LEP persons, free of charge. The NCDOT will carefully explore the most cost-effective means of delivering reasonable and appropriate language assistance to LEP persons before limiting services due to resource concerns. Business units may procure qualified language assistance translators and interpreters of their own. However, due to federal monitoring requirements business units choosing to procure their own interpreting services must contact OCR for coordination and oversight of such services. The Department will identify and work with community-based organizations (i.e., “Language Access Resource Contacts,” or “LARC”) and qualified (or trained) community volunteers to conduct outreach and education to LEP populations.

Provision of Services to LEP Beneficiaries and Applicants

A. Assessing Language Assistance Capabilities and Resources

1. The Department will evaluate its language assistance capabilities by providing language access assessment tools to each program area (e.g., Public Transportation Division) and Highway Division with instructions for completing the self-assessment materials. This information will be used to determine:
 - a. types of contact the Department has with the public and the State’s LEP populations;
 - b. language services already provided across NCDOT, including use of LEP consultants;
 - c. records detailing interactions (e.g., phone calls, meetings, DMV) with LEP persons;
 - d. vital documents and information provided by NCDOT programs and activities;
 - e. intake areas or points of contact where language assistance is most needed;
 - f. current fiscal, staff (bilingual) and technological resources available for language services;
 - g. sufficiency of existing LEP and Communication policy directives, plans and procedures;
 - h. Departmental LEP awareness and training needs; and
 - i. other areas as determined.
2. The Department will determine the language assistance needs of the population to be served by reviewing responses to the assessments conducted under Section A. 1 This will identify if, by whom, and how the Department engages in vital public information and involvement activities. The next step will be utilizing the four factor analysis to determine reasonable steps to provide meaningful access to LEP persons.
 - a. Collect (or review) LEP data to determine (or validate) primary languages of LEP persons who have (or should have) come into contact with the Department. Data utilized by OCR, Highway Divisions and program areas may include:
 - i. U.S. Census data (required) and GIS mapping;
 - ii. school system data;
 - iii. reports from federal, state, and local government agencies;
 - iv. information provided by community-based organizations (e.g., churches, LARCs);
 - v. data from client files; and

- vi. Other sources where available.
 - b. Verify frequency of encounters (records of interactions) with language groups across NCDOT.
 - c. Verify the NCDOT (including for Divisions) programs, activities and services important to LEP populations and prioritize LEP resources and responses, accordingly. If necessary, verification will occur through Departmental interviews and surveys with LEP participants and beneficiaries.
 - d. Identify funding and other resources for providing Departmental language services (e.g., written translation, oral interpretation) to LEP persons. Other resources include, but are not limited to, internal staff, advocacy groups, and private consulting firms. Please note:
 - i. Federal Title VI guidance advises that the State DOT's civil rights leadership be fully involved in the agency's budget process and ensure that the agency has an earmarked budget and appropriation for external civil rights enforcement (e.g., language assistance services).
 - ii. NCDOT leadership should coordinate with the Departmental Office of Civil Rights (i.e., OCR Director and Title VI program staff) to determine how the Department will fund and provide language services.
 - iii. Failing to provide language assistance could result in determinations of noncompliance or discrimination (intentional or unintentional) under federal reviews or investigations.
 - e. As federally required, program areas will be expected to utilize language assessment tools and resources to also determine the language needs of beneficiaries/applicants under their specific programs and activities, including projects. OCR will identify and notify any areas where this will be needed.
3. As a federal-aid recipient, all NCDOT programs and officials must comply with Title VI and LEP requirements. Compliance with LEP guidelines will depend largely on each program's type of work (i.e., Title VI implementation under transportation planning and construction is different because planning and construction perform different activities. Likewise, language assistance may not be identical because planning and construction inform and/or engage the public differently). Meeting the language needs of LEP beneficiaries and applicants begins with:
- a. Contacting OCR's Title VI Program if you have questions regarding your program or unit's Title VI and LEP obligations (*Note*: The remainder of this Plan will focus almost exclusively on meeting the needs of LEP persons, in general).
 - b. At the first point of contact, identifying the primary language of each LEP beneficiary/applicant. Below are potential methods:
 - i. Multi-language ("I speak") identification cards and/or a poster-size language list for indicating preferred languages;
 - ii. Tools to determine English proficiency, provided they can be administered in a manner that is sensitive and respects individual dignity and privacy;
 - iii. Maintain records from activities with LEP persons and any correspondence with the public, LARCs, and organizations representing LEP groups. This information will be reported to OCR, upon request; this includes requests made under Title VI reviews; and
 - iv. Other reasonable methods, as necessary, based on the circumstances.
 - c. Informing LEP beneficiaries and applicants of their right to have an oral interpreter provided at no cost to them, via written notice in their primary language. Oral interpretation and written translation are discussed further in the remaining sections of this Plan.

B. Provision of Bilingual/Interpretive Services

1. The Department will ensure that necessary and effective oral interpretation services are provided free of charge to LEP persons. The provision of bilingual/interpretive services will be prompt without undue delays. The Department will provide language assistance at all levels of interaction with LEP persons/groups, including telephone interactions.
2. Absent an individual request for oral language services, program areas that release public information or solicit public involvement will conduct a demographic profile of the area to be served or likely encountered by an activity. They will also identify and establish LARC relationships with community organizations and advocates. The results of these efforts will assist in determining and enabling appropriate use of bilingual/interpretive services.
3. A formal reporting procedure will be developed to document and track oral interpretation services including languages provided, frequency of use (or number of persons served), the circumstances surrounding each use, and the interpretation service expenditures associated with the contact.

C. Interpreter Standards and Use

1. Providers of oral interpretation services will meet the linguistic and cultural competency standards set forth below. The Department will ensure that interpreters and bilingual staff have been screened to ensure the following standards are met before they are approved to provide interpreter services:
 - a. Can fluently and effectively communicate in both English and the primary language of the LEP person/group;
 - b. Can competently and impartially interpret between English and other languages;
 - c. Has a basic knowledge of specialized terms and concepts used frequently in the provision of the Department's services;
 - d. Demonstrates knowledge of cultural mores and preferences;
 - e. Understands the obligation to maintain confidentiality; and
 - f. Understands the roles of interpreters and the ethics associated with being an interpreter.
2. Interpreters will be required to demonstrate the full range and level of proficiency in a given language during a Departmental prequalification process (Certification by the American Translators Association is sufficient).
3. An interpreter will be provided for all meetings and hearings, upon request, or if the Hearing Officer or demographic data determines that an interpreter is necessary.
4. When staff members have reason to believe that an interpreter is not qualified or properly trained to serve as an interpreter, the staff member will report this concern to OCR to determine what other actions are necessary.
5. During prequalification, interpreters shall sign an acknowledgement affirming that they will competently and impartially provide language assistance services.

D. Use of Family Members or Friends as Interpreters

1. Beneficiaries/applicants may provide their own interpreter; however, the Department will not require them to do so. Please note that due to the legalities of certain services provided, the Department can require the use of contracted interpreters.
2. The Department will first inform an LEP person, in the primary language of the LEP person, of the right to free, competent interpreter services and the potential problems with ineffective interpretation. If the LEP person declines such services and requests the use of a family member or friend, the Department may utilize the family member or friend to interpret only if the use of such person would not compromise the effectiveness of services, or violate the LEP person's confidentiality. The Department will monitor these interactions and again offer interpreter services, if it appears there are problems with this arrangement.

3. The Department will implement the use of a waiver form to document that an offer of oral interpretation services was made and rejected; that the person/group was informed of the potential problems associated with using friends or family members and the name of the person serving as an interpreter at the LEP individual's request.
4. **NCDOT discourages the use of minors (under the age of 18 years) as interpreters.** However, under extenuating circumstances the Department shall allow a minor to temporarily act as an interpreter, such as where the denial or delay of services significantly impacts access to the program, service or activity. The Office of Civil Rights will be consulted in these situations.

E. Provision of Written Translations

1. Where a substantial number or percentage of the population does not speak English very well, the Department will provide vital written materials, at no cost, in languages other than English.
2. Copies of all translated documents from each Division/program area/business unit shall be maintained and made available to the Office of Civil Rights and/or the Communications Office to verify compliance.
3. Translation of Vital Documents
 - a. The Department will ensure that the vital documents of each program area/business unit/Division are translated according to the safe harbor threshold (5% or 1,000 persons whichever is less) outlined in the DOT LEP Guidance. If the number of LEP persons meets the threshold, the Department will translate and provide vital documents in other languages, as necessary.
 - b. If the primary language of an LEP group is a language that does not meet the threshold for written translation, or there are fewer than 50 persons in a language group that reaches the 5% trigger, translation of written materials is not mandatory. Instead, written notices shall be translated into the language of the LEP group to inform them of the right to competent oral interpreters. The notification will include the following statement both in English and the primary language of the LEP group: **"Important: If English is not your primary language, please ask NCDOT for assistance. An interpreter can be made available free of charge"**.
 - c. When written materials require an entity or individual to insert additional information, the information must be accepted in the person's primary language.

F. Staff Development and Training

1. The Department will ensure staff awareness of the LEP Plan through training programs. Topics may include:
 - a. Language assistance policies and procedures, resources available to support LEP procedures, how to effectively utilize interpreters, and familiarization with the discrimination complaint process.
 - b. Cultural awareness information, including specific cultural characteristics of the LEP groups served by the Department to provide better understanding and sensitivity toward various cultural groups to ensure equal treatment and delivery of services.
2. The Department will encourage training and certification opportunities for bilingual staff and interpreters employed by the Department, including, but not limited to, the ethics of interpreting (confidentiality); methods of interpreting; orientation to the organization; procedures and terminology specific to the Department; and cultural competencies.
3. Subrecipients, contractors, cooperative agreement recipients, and other entities receiving state or federal dollars will be notified and/or trained in the requirements of this policy.

Compliance Monitoring

Office of Civil Rights, Title VI Program will be responsible for monitoring Departmental knowledge and implementation of this Plan and related procedures. Monitoring will also include assisting program officials (e.g., PTD) with ensuring subrecipient programs, services and activities are assessing the demographic make-up of service areas to identify and meet the communication needs of LEP persons.

- A. The Department will continuously self-monitor for LEP compliance. Documentation and records will be reviewed and updated as needed to assess and/or meet the following:
 - 1. Language needs of LEP persons/groups;
 - 2. Reviews of quality of language services and outreach provided to LEP persons;
 - 3. Awareness of the right to file a complaint by persons, groups or advocates concerning disparate treatment or impacts of Departmental practices on LEP persons; and
 - 4. The review of expenditures associated with providing language access.
- B. The Department will monitor subrecipients to ensure that LEP persons have meaningful access to all programs, services and activities funded by the Department. Monitoring will occur through reviews or investigations concerning Title VI compliance and involve the following:
 - 1. Conducting periodic audits;
 - 2. Conducting LEP-related discrimination complaint investigations;
 - 3. On-site visits; and
 - 4. The collection of data necessary to ensure compliance.
- C. The Department will monitor contractors for compliance with Title VI and LEP requirements. Typically, this will occur on an as-needed basis.
- D. The Department will cooperate with reviews or LEP-related information requests by federal agencies.

Documentation of LEP Contacts

The Department will maintain sufficient records to enable a review of its compliance with LEP requirements. Following the Departmental language access assessment, OCR will issue internal guidance related to the maintenance of LEP-related data and information. This guidance will require NCDOT officials who assist or encounter LEP persons to, at a minimum:

- A. Log the primary languages of participants and other LEP persons encountered (i.e., I, Speak cards may be utilized to determine the person's preferred language);
- B. Document the method used to provide language assistance (e.g., written translation, bilingual employee acted as interpreter, consultant interpreter was used, or client provided interpreter);
- C. Document in detail the circumstances requiring temporary use of a minor as an interpreter (e.g., due to exigent circumstances, the client insists on using a minor for interpretation).
 - 1. Note: No NCDOT official should ever recommend that an LEP client use a child as an interpreter.
- D. Document whether the language assistance was satisfactory (i.e., did the LEP person accept or reject the written materials or interpretation services offered, or indicate a lack of understanding).

Complaints, Investigation and Resolution of Matters

The Department will provide language assistance to LEP persons if they indicate they would like to file a discrimination complaint. NCDOT's External Discrimination Complaints procedures will be utilized to process and investigate Title VI complaints by LEP persons. Language assistance services under the complaints process will include:

- Providing forms and correspondence in the primary language of the LEP person;
- Assisting the LEP person with submitting the complaint in writing;
- Utilizing oral interpreters who are aware of confidentiality requirements during complaint intake, interviews and resolution attempts; and
- Permitting (but not requiring) LEP complainants to bring their own interpreters.