

 <p style="text-align: center;">POLICIES AND PROCEDURES</p> <p style="text-align: center;">State of Tennessee Department of Intellectual and Developmental Disabilities</p>	Policy #: 80.4.8	Page 1 of 4
	Effective Date: April 6, 2015	
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Policy Type: Administrative	Supersedes: 80.4.8 (10/1/12)	
Approved by: <i>Debra K. Payne</i>	Last Review or Revision: March 12, 2015	
Debra K. Payne, Commissioner		
Subject: LIMITED ENGLISH PROFICIENCY		

- I. **AUTHORITY:** Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000(d) *et seq.*, as amended; Section 1557 of the Patient Protection and Affordable Care Act (42 U.S.C. 18116); Tennessee Code Annotated (T.C.A) Section 8-50-103, T.C.A. 4-3-2708, T.C.A. 33-1-303 and T.C.A. 4-3-2708.
- II. **PURPOSE:** To establish procedures within the Department of Intellectual and Developmental Disabilities (hereinafter "Department" or "DIDD") for the provision of services to persons with Limited English Proficiency (LEP) in accordance with Title VI of the Civil Rights Act of 1964.
- III. **APPLICATION:** This policy applies to all Department employees, interns, pass-through entities, and volunteers, and all employees of the Tennessee Council on Developmental Disabilities.
- IV. **DEFINITIONS:**
 - A. **Interpretation** shall mean the process of understanding and analyzing a spoken message and re-expressing that message faithfully, accurately, and objectively into another language, taking the cultural and social context into account.
 - B. **Interpreter** shall mean a person whose task is to facilitate the understanding of communication between people who do not speak the same language.
 - C. **Limited English Proficient or Proficiency (LEP)** shall mean people who do not speak English as their primary language, and who therefore have limited ability to read, speak, or understand the English language.
 - D. **Meaningful Access** shall mean the provision of communicative assistance necessary to allow affected persons to participate in DIDD services or activities.
 - E. **Translator** shall mean an individual who conveys in writing the context of a document from one language to another.
 - F. **Vital Documents** shall mean documents that convey important information about, but not limited to, the following subjects: Medicaid waivers, human and civil rights, consent to treatment, financial and medical benefits, individual support plans, and behavior support plans.
- V. **POLICY:** The Department shall ensure that all people with LEP receiving, applying for, or waiting to receive DIDD services or supports, have equal and meaningful access to vital documents about DIDD services, at no cost to the individual.

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VI. PROCEDURES

- A. All managers and supervisors shall be responsible for ensuring that department staff is informed about this policy.
- B. The department shall provide interpreters, translators and other communication aids necessary to comply with this policy, without cost to persons supported, seeking, or waiting for DIDD services, as well as their authorized representative(s).
- C. The department shall provide language assistance through the use of competent bilingual staff, the statewide language interpreter contract, arrangements with organizations providing interpretation or translation services, or technological or telephonic interpretation services.
- D. The department shall ensure that staff having direct contact with people who have LEP shall be trained in effective communication techniques, including the effective use of an interpreter.
- E. Staff shall take reasonable steps to ensure meaningful communication with people who have LEP and their authorized representative(s).
 1. Staff shall promptly identify the language and communication needs of person's with LEP who needs translator assistance. If necessary, staff shall use a language identification card (or "I speak cards") or posters to determine the person's language.
 2. Staff working with a person with LEP shall inform the person and their authorized representative(s) of the resources available to facilitate communication of information and decision making.
 3. The language used to communicate with the person with LEP or their authorized representative shall be documented in the person's record.
 4. Family members, especially children, or friends are not allowed to interpret for the person with LEP unless specially requested by the person and **after** staff has informed the person with LEP that an alternate interpreter is available at no charge.
 5. Staff shall document the offer of assistance and the person's response in the person's file. If the person with LEP chooses to use a family member or friend as an interpreter, staff shall to the best of their ability consider the following issues: competency of interpretation, confidentiality, privacy, and conflict of interests.
 6. When in doubt that the family member or friend is competent or appropriate to interpret for the person, then, staff shall arrange for competent interpreter services to be provided to the person with LEP.
 7. Staff shall contact the appropriate regional office or facility Title VI Coordinator in order to request interpreter services available through the statewide contract.

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8. Interpreter services shall only be accessed for official DIDD business.
 9. Contact information for the statewide interpreter contract shall be maintained on the department web site.
- F. The DIDD regional or facility Title VI Coordinator shall be responsible for:
1. Maintaining an accurate and current list showing the name, language, phone number and hours of availability of bilingual staff.
 2. Contacting the appropriate bilingual staff member or the statewide contractor for interpretation or translation services in the event that an interpreter is needed.
 3. Arranging back-up when they are unavailable.
- G. Translation of Vital Documents
1. Regional and facility staff shall post written notice of the availability of translation services, free of charge, for people with LEP.
 2. Regional and facility staff shall provide for the translation of written materials, free of charge, to people with LEP.
 3. Staff shall ensure that information contained in vital documents is provided in the primary language of the person with LEP.
 4. Staff shall submit documents for translation to the regional or facility Title VI Coordinator.
 5. The original documents submitted for translation shall contain current, accurate information and be in the final approved form.
 6. The Office of Civil Rights shall set benchmarks for translation of vital documents into additional languages, on an annual basis.
- H. Providing notice to people with LEP
1. The Office of Civil Rights shall inform people with LEP of the availability of language assistance, free of charge.
 2. This notice shall be provided in writing, in frequently encountered languages for people with LEP.
 3. Multi-lingual notices and signs shall be posted and copies made available in intake areas and points of entry.
 4. Notification shall be provided through one or more of the following means:
 - a. Outreach documents (e.g. posters)
 - b. Radio and television stations

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c. Community-based organizations

I. Annual Report of Language Needs

1. The Office of Civil Rights shall prepare and submit to the DIDD Commissioner, an annual report on language needs which shall include, but is not limited to, the following topics:
 - a. The efficacy of these procedures.
 - b. The demographics of persons with LEP.
 - c. Languages encountered.
 - d. Mechanisms for securing interpreter services.
 - e. Equipment used for the delivery of language assistance
 - f. Complaints filed by people with LEP.
 - g. Feedback from individuals and community organizations.

VII. CQL STANDARD(S): 1a, 1d, 7b

VIII. REVISION HISTORY: January 22, 2015

IX. TENNCARE APPROVAL: N/A

X. ATTACHMENT(S): None