

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

# LANGUAGE ACCESS IMPLEMENTATION PLAN

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## I. INTRODUCTION

The Department of Fair Employment and Housing (DFEH or the Department) is the state agency charged with enforcing California’s civil rights laws. The mission of the DFEH is to protect the people of California from unlawful discrimination in employment, housing, business establishments, public accommodations, and state-funded or state-administered programs and activities, and from bias-motivated violence and human trafficking.

DFEH is the institutional centerpiece of California’s broad anti-discrimination policy. Today, DFEH is the largest state civil rights agency in the country operating out of six offices throughout California: Elk Grove (Headquarters), Bakersfield, Fresno, Los Angeles, Oakland (opening 2022), and Riverside. California is a diverse state, with over 6.5 million individuals over the age of five considered limited English proficient.<sup>1</sup> Individuals with limited English proficiency (LEP)<sup>2</sup> and those with disabilities constitute a significant part of California’s population and providing language and communication access to these communities is a priority for DFEH.

DFEH staff interview complainants, witnesses, and respondents during the intake, investigation, conciliation, mediation, and prosecution of complaints alleging violations of the Fair Employment and Housing Act, the Ralph and Unruh Civil Rights Acts, and the Disabled Persons Act, among other civil rights statutes enforced by the Department. DFEH also engages in public outreach and education efforts aimed at informing the public of their rights and responsibilities under the laws enforced by the Department.

The purpose of the DFEH Language Access Implementation Plan (LAP) is to establish effective language access guidelines consistent with federal law – namely, Title VI of the Civil Rights Act of 1964 and Executive Order 13166. DFEH’s LAP is also consistent with state law – namely, the Unruh Civil Rights Act, California Government Code Section 11135, and the Dymally-Alatorre Multilingual Services Act. The policies, practices, and implementation steps identified in the LAP are essential to the success of our mission to protect the people of California from unlawful discrimination. The LAP aims to ensure that language and communication access is linguistically and culturally appropriate and provides equal and meaningful access to all in California. The LAP outlines information, requirements, and action items for DFEH to provide equal and meaningful access for LEP individuals, including people with disabilities, in their primary language and in accessible formats.

To inform this LAP and ensure DFEH is meeting its obligations to provide equal and meaningful access, the Department has analyzed data from its regional offices on the statewide and regional levels. Analysis of the data statewide is even more important as an increasing number of people seeking DFEH’s services are reaching out online and by telephone from across the state instead of coming into one of our six physical offices. As a result, they may be served by

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<sup>1</sup> U.S. Census Bureau, *American Community Survey, Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over* (2019) (U.S. Census 2019), available at: [Census - Table Results](#).

<sup>2</sup> See LEP Definition, *infra*, III.B; The U.S. Census Bureau defines LEP as “speaks English less than ‘very well’.” U.S. Census 2019.

DFEH employees anywhere in the state. For example, if a person in Los Angeles calls to file a housing claim, a DFEH employee in Elk Grove or another office may handle the intake and other aspects of the claim. Therefore, we ensure that while we meet every obligation with respect to language access in each regional office, we also look at data statewide to ensure we can meet needs across the state.

## **II. POLICY STATEMENT**

It is DFEH’s policy to take reasonable steps to provide timely and meaningful access for LEP persons coming in contact with DFEH, including complainants, witnesses, respondents, and community members. DFEH shall take reasonable steps to provide this meaningful access in the entire scope of its work including programs, activities, information, and services. DFEH personnel will take reasonable steps to provide free language assistance services to LEP persons whom they encounter or who contact the Department. Personnel will inform members of the public that language assistance services are available free of charge to LEP persons and that the Department will take reasonable steps to provide these services to them.

Further, it is DFEH’s responsibility, and not the individual’s, to take reasonable steps to ensure communications are not impaired as a result of the limited English proficiency of the individual.

## **III. PURPOSE, AUTHORITY, AND DEFINITIONS**

As California’s civil rights agency, DFEH protects rights that are of central importance to people’s lives and to their ability to participate meaningfully in the life of our society. These include the rights to be free from discrimination in employment and housing and public accommodations, as well as protection from human trafficking and bias-motivated violence. Equal and meaningful access to DFEH’s programs and services for LEP individuals, including effective written and oral communication, is central to protecting these rights.<sup>3</sup>

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<sup>3</sup> The importance to people’s lives of the services provided by DFEH implicates one of the four factors in the U.S. Department of Justice (U.S. DOJ) guidance assessing compliance with prohibitions against national origin discrimination. See U.S. DOJ, *Four Factor Assessment, Department of Justice Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (DOJ Recipient LEP Guidance), 67 FR 41455 (June 18, 2002):

“Recipients [of federal assistance] are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors: (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people’s lives; and (4) the resources available to the grantee/recipient and costs.”

Therefore, DFEH will take reasonable steps to:

1. Provide accessible services in the LEP individual’s non-English native or preferred language.
2. Provide accessible services on an equal basis to people with disabilities in accessible formats.
3. Incorporate language access into outreach activities when necessary to provide meaningful access. Language access strategies will be determined in part based on the target audience.

## A. FEDERAL AND STATE STATUTES AND EXECUTIVE ACTIONS REQUIRING LANGUAGE ACCESS

Federal and state law provide protections from discrimination based on enumerated classifications, and DFEH implements these protections consistent with state and federal regulations and guidance.

**Civil Rights Act of 1964:** The Civil Rights Act of 1964 is a landmark federal civil rights and labor law that outlaws discrimination based on race, color, religion, sex, or national origin. Title VI of the Civil Rights Act of 1964 requires recipients of federal financial assistance to take reasonable steps to provide meaningful access to their programs, services, and activities to eligible LEP individuals.<sup>4</sup>

**Executive Order 13166:** Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, requires federal agencies and recipients of federal financial assistance to examine the services they provide, identify any need for services to LEP individuals, and develop and implement a system to provide those services so LEP individuals can have meaningful access to them.

**Dymally-Alatorre Multilingual Services Act (Dymally-Alatorre Act):** California’s Dymally-Alatorre Multilingual Services Act requires state and local agencies serving a substantial number of non-English speaking people to employ a sufficient number of qualified multilingual staff in public contact positions and to translate documents explaining available services into the languages used by the people they serve. The Act defines “substantial number” in this context as members of a group who either do not speak English, or who are unable to effectively communicate in English because it is not their native language, and who comprise 5 percent or more of the people served by the agency statewide or at any of its local offices.<sup>5</sup> The Act requires each state agency to conduct a survey of all of its offices every 2 years (in even-numbered years) regarding their public contact positions and the provision of multilingual services. The survey must also identify languages other than English spoken by 5 percent or more of the LEP people served by the state agency. When information is available in English,

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<sup>4</sup> As a recipient of federal funds, DFEH is “strongly recommended but not require[d]” to draft a Language Access Plan. DOJ notes the many benefits to drafting and implementing a plan and reminds all recipients of the ongoing and underlying obligation to provide “reasonable, timely, and appropriate language assistance to the LEP populations each serves.” U.S. DOJ, *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (6/18/2002), 67 FR 41455, at pp. 4155-41456.

<sup>5</sup> Cal. Gov. Code § 7296.2.

the law requires each department to provide the same information in any non-English language in which 5 percent or more of the public served by the department requests services during the survey period. (Cal. Gov. Code §§ 7290 et seq.). The Act also requires state agencies to develop and update an implementation plan describing how the agency plans to address any deficiencies in meeting the requirements of the Act.<sup>6</sup> (Cal. Gov. Code §7299.4(d))

**California Government Code Section 11135:** California Government Code section 11135 is the state law analogous to – but broader than – Title VI of the federal Civil Rights Act of 1964. This law prohibits discrimination on the basis of race, color, religion, ancestry, national origin, ethnic group identification, age, physical or mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation under any program that is “conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.” (Cal. Gov. Code § 11135) In addition to being subject to this law’s requirements in its own programs and activities, DFEH enforces the protections of Government Code section 11135 as it applies to other state agencies and state-funded activities and programs.

## B. DEFINITIONS

1. Effective Communication – Communication sufficient to provide the LEP individual with substantially the same level of access to services received by individuals who are not LEP. For example, staff must take reasonable steps to ensure communication with an LEP individual is as effective as communications with others when providing similar programs and services.<sup>7</sup>
2. Indigenous Languages – “Indigenous languages” is the term used for languages that are native to a region and spoken by indigenous peoples but not widely spoken outside of that region. Many of these languages have limited or no written components. These indigenous languages present unique language access challenges because it is often difficult to find interpreters and language access providers who are able to speak both the indigenous language and English with enough proficiency for meaningful communication. Therefore, it is often necessary to provide relay interpreting, where the first interpreter renders the indigenous language into a more common foreign language (e.g., from one form of Mixteco to Spanish) and another interprets from the more common language to English (in our example, Spanish to English).<sup>8</sup>
3. Interpretation – The act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning. Modes of Interpretation include:

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<sup>6</sup> Cal. Gov. Code § 7299.4(1).

<sup>7</sup> Unless otherwise noted, definitions reflect the U.S. DOJ Language Access Plan (Mar. 2012), available at: [www.justice.gov/sites/default/files/open/legacy/2012/05/07/language-access-plan.pdf](http://www.justice.gov/sites/default/files/open/legacy/2012/05/07/language-access-plan.pdf).

<sup>8</sup> This definition is based on the Judicial Council of California, Strategic Plan for Language Access in California Courts (Jan. 2015), available at: [www.courts.ca.gov/documents/CLASP\\_report\\_060514.pdf](http://www.courts.ca.gov/documents/CLASP_report_060514.pdf) (defining “indigenous language” and noting the growing numbers of people speaking indigenous languages in California).

- a. Consecutive: The interpreting technique whereby the interpreter speaks only during gaps when the facilitator/participant pauses to allow for interpretation.
  - b. Simultaneous: The interpretation of a speaker’s words into another language at the same time the speaker is talking, without pauses or interruptions.
  - c. Sight translation: The reading of a text by the interpreter from the source text into the target text simultaneously and in a manner in which the content of the document can be easily understood by the audience.
  - d. American Sign Language (ASL): ASL is the predominant visual language used by people who are Deaf or hard of hearing in the United States. With signing, the brain processes linguistic information through the eyes. The shape, placement, and movement of the hands, as well as facial expressions and body movements, all play important parts in conveying information. ASL has its own grammar and syntax rules.
4. Language Assistance Services – Oral and written language services needed to assist LEP individuals to communicate effectively with staff, and to provide LEP individuals with meaningful access to, and an equal opportunity to participate fully in, the services, activities, or other programs administered by the Department.
  5. Limited English Proficient (LEP) Individuals – Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. LEP individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing).
  6. Meaningful Access – Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals.
  7. Multilingual staff or employee – A staff person or employee who has demonstrated proficiency in English and reading, writing, speaking, and understanding at least one other language as authorized by DFEH.
  8. Primary Language – An individual’s primary language is the language in which an individual most effectively communicates.
  9. Program or Activity – A program or activity is defined to include any project, action, or procedure undertaken directly or indirectly by the Department through others by contracts, arrangements, or agreements, with respect to the public generally or with respect to any private or public entity. The term “program or activity” and the term “program” mean all the operations of the Department.

Such programs or activities include, but are not limited to, the provisions of employment or services; the procurement of goods or services; the provision of education, training. . . or other services. . . or the provision of facilities for furnishing services . . . or other benefits. The services . . . or other benefits provided under such programs or activities shall be deemed to include:

- i. any services . . . or other benefits provided with the aid of State support, or with the aid of other funds or resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order for the recipients to receive the State support; or
  - ii. any service, financial aid or other benefit provided in or through a facility which is or was provided with the aid of State support or other funds or resources.<sup>9</sup>
10. Public Contact Position/Employee (PCE) – A contractor or employee whose duty statement specifies that they will have contact with the public and/or fills a position that meets, contacts, or deals with the public in the performance of the agency’s functions. Public contacts include in-person, emails, faxes, letters, telephone, social media, and TTY/TTD.<sup>10</sup>
  11. Qualified Translator or Interpreter – An in-house or contracted translator or interpreter who has demonstrated competence to interpret or translate through certification or is authorized to do so by contract with DFEH or by approval of DFEH. DFEH’s certification standards are included in the LAP.<sup>11</sup>
  12. Sight Translation – Oral rendering of written text into spoken language by an interpreter without change in meaning based on a visual review of the original text or document.
  13. Translation – The replacement of written text from one language (source language) into an equivalent written text in another language (target language).
  14. Vital Document – Paper or electronic written material that contains information that is critical for accessing DFEH’s program or activities or is required by law.<sup>12</sup>

#### **IV. DFEH LANGUAGE ACCESS NEEDS ASSESSMENT**

Consistent with its mandate and obligations under the Dymally-Alatorre Act, DFEH conducts a bi-annual survey to measure (1) the frequency of contacts with non-English-speaking individuals and (2) whether DFEH has a sufficient number of qualified multilingual employees in public contact positions to serve the community. The survey data identifies the number of LEP individuals DFEH serves at the local and state office level within each division/business unit (e.g., number of LEP individuals served by Elk Grove, Dispute Resolution Division; number of LEP

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<sup>9</sup> 2 CCR § 11150.

<sup>10</sup> See California Employment Development Department, *2018 Dymally-Alatorre Language Survey*, Definition of Public Contact and Public Contact Employee, available at: [www.naswa.org/system/files/2021-03/californiaeddenlosure42018bienniallanguagesurvey.pdf](http://www.naswa.org/system/files/2021-03/californiaeddenlosure42018bienniallanguagesurvey.pdf); Under California law, a “public contact position” is a position determined by the agency to be one which emphasizes the ability to meet, contact, and deal with the public in the performance of the agency’s functions. Cal. Gov. Code § 7297.

<sup>11</sup> See Section V.D., *infra*, at p. 15.

<sup>12</sup> In addition to the definition in the U.S. DOJ Language Access plan, examples of vital documents are provided by the Judicial Council of California in *Appendix A to its Translation Protocol* (July 2016), available at: [www.courts.ca.gov/documents/lap-Translation-Protocol.pdf](http://www.courts.ca.gov/documents/lap-Translation-Protocol.pdf).

individuals served by Elk Grove, Housing Enforcement; number of LEP individuals served by Elk Grove, Employment Enforcement; and number of LEP individuals served by Elk Grove, Legal Division). Because DFEH provides services on a state-wide level from each office (e.g., a mediator assigned to Elk Grove might handle a case in San Diego), DFEH analyzes this data internally on a statewide level, as well.

## A. DFEH'S LANGUAGE ACCESS IMPLEMENTATION PLAN AND THE DEPARTMENT'S WORK GOING FORWARD ARE INFORMED BY THE DYMALLY-ALATORRE SURVEY DATA, THE U.S. CENSUS AMERICAN COMMUNITY SURVEY, AND AN ASSESSMENT OF THE LANGUAGE ACCESS SERVICES AND RESOURCES DFEH ALREADY PROVIDES TO LEP INDIVIDUALS ACROSS THE STATE<sup>13</sup>

### 1. DFEH Data from the 2020 Dymally-Alatorre Survey

The 2020 DFEH data<sup>14</sup> of non-English-speaking people served by statewide and local offices, broken down by native language, with percentages noted for individual languages used by at least 5% of contacts:

- Bakersfield: Total LEP Individuals Served: 1,638 (6% of contacts)
  - Mandarin: 26
  - Spanish: 1,586 (5% of contacts)
  - Tagalog: 26
- Elk Grove: Total LEP Individuals Served (including Executive Programs and Communication Center): 20,800 (12% of contacts)
  - ASL: 234
  - Farsi: 26
  - Korean: 182
  - Mandarin: 52
  - Punjabi: 442
  - Spanish: 19,864 (11% of contacts)
- Fresno: Total LEP Individuals Served: 286 (3% of contacts)
  - Spanish: 286
- Fremont: Total LEP Individuals Served: 286 (1% of contacts)
  - Arabic: 26
  - ASL: 52
  - Mandarin: 26

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<sup>13</sup> "Each agency shall calculate the percentage of non-English-speaking people served by each statewide and local office by rounding the percentage arrived at to the nearest whole percentage point." Dymally-Alatorre Act, Cal. Gov. Code §7299.4 (f).

<sup>14</sup> This data is an annualized estimate based on the two-week 2020 Dymally-Alatorre Survey data conducted by DFEH.

- Spanish: 156
  - Vietnamese: 26
  - Los Angeles: Total LEP Individuals Served: 3,172 (5% of contacts)
    - Armenian: 26
    - Cantonese: 26
    - Japanese: 26
    - Spanish: 3,016 (5% of contacts)
2. The U.S. Census Bureau American Community Survey (ACS) 2013-2017
- The Census Bureau data are generally consistent with the DFEH’s data of the number of LEP individuals DFEH serves statewide. According to the ACS data from 2013-2017, California’s top 12 non-English languages as: (1) Spanish, (2) Chinese (including Cantonese and Mandarin) (3) Vietnamese, (4) Tagalog, (5) Korean, (6) Armenian, (7) Farsi, (8) Arabic, (9) Russian, (10) Japanese, (11) Punjabi, and (12) Khmer.<sup>15</sup>
- The most recent U.S. Census data readily available at the county level released in October 2015 covers the years 2009-2013.<sup>16</sup> For all six DFEH office locations, Spanish remains the one language that surpasses the 5% threshold in all six counties.

## B. EXISTING LANGUAGE ACCESS RESOURCES/SERVICES PROVIDING INTERPRETATION AND TRANSLATION

1. Number of Public Contact Employees (PCE) by Office
- Bakersfield: 13 employees
  - Elk Grove: 89 employees
  - Fremont: 23 employees
  - Fresno: 10 employees
  - Los Angeles: 64 employees
  - Riverside: 8 employees
  - TOTAL: 207 PCEs
2. DFEH employs 42 qualified multilingual employees in public contact positions across its offices. The DFEH employs and certifies 41 multilingual staff to assist LEP customers in Spanish, and one to assist LEP customers in Korean.

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<sup>15</sup> U.S. Census 2019, see *supra*, fn.1.

<sup>16</sup> U.S. DOJ, Civil Rights Division, 2015 Language Map App, available at: [www.lep.gov/maps/lma2015/Final](http://www.lep.gov/maps/lma2015/Final). While other languages do not meet the 5% threshold, data regarding concentration of different LEP communities will be helpful as DFEH develops its plans for translation and interpretation beyond the 5% requirement. For example, in Los Angeles there is a substantial proportion of Armenian, Chinese and Korean speakers, while there is a sizeable Hmong community in both Sacramento County (Elk Grove) and Fresno.

3. DFEH uses telephone-based interpretation services or other services, in addition to qualified multilingual persons in public contact positions.<sup>17</sup>
4. DFEH provides closed captioning at FEH Council meetings. When requested, DFEH provides interpretation services, including ASL interpretation, and translation of public notice documents in advance of public meetings.
5. DFEH has a Spanish language outreach program. Through this program, DFEH conducts outreach with monolingual Spanish speakers and with stakeholders directly working with monolingual Spanish speakers.
6. Translation – Written Documents (complaint forms, eligibility forms, know your rights information, outreach, etc.)
  - DFEH has identified vital documents that it translates in different languages and is developing a process for identifying all vital documents and the languages into which those documents must be translated.
  - Written Complaint forms are currently available in: English, Spanish, Chinese, Korean, Vietnamese, Tagalog, Punjabi. Electronic complaint forms submitted via the online portal known as the California Civil Rights System (CCRS) are currently available in English and Spanish.
7. Website and Other Digital Information – Accessible Vital Documents/W3C Web Accessibility Standards
  - The DFEH website has a Google Translate widget that will translate the website into 110 different languages. The widget does not translate pdf documents and other outreach materials that are attached; those documents are translated separately, and DFEH is developing a process for evaluating future translation needs.
  - At this time, this Google translator feature applies to web pages only. Web forms and publications are available only in the languages in which they are formatted and presented.
  - DFEH is developing a process through which it will determine what pages on its website need to be translated to ensure that it is providing access to all vital documents.
  - DFEH certifies that its website complies with Government Code Section 11546.7, including compliance with Government Code Section 7405 (incorporating Section 508 of the U.S. Rehabilitation Act), Government Code Section 11135, and World Wide Web Consortium (W3C) Web Content Accessibility Guidelines 2.1, Level AA. These guidelines explain how to make web content more accessible for people with disabilities.

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<sup>17</sup> DFEH may contact other state departments/agencies for assistance if a listed DFEH certified interpreter or non-certified interpreter is not available to translate/interpret to an individual. DFEH currently uses Language Line for telephonic interpreters and document translators, Focus Language International for in-person and video remote interpreters, NorCal Services for the Deaf and Diana Brandin Realtime Captioning for American Sign Language services. We have recently executed a contract with MICOP for telephonic and video remote interpretation for Indigenous languages.

## **V. DFEH'S PROCEDURES FOR IDENTIFYING LANGUAGE NEEDS AT STATEWIDE AND LOCAL OFFICES AND ASSIGNING QUALIFIED MULTILINGUAL STAFF TO THOSE OFFICES**

### **A. INTERPRETATION PROTOCOLS**

1. DFEH uses "I Speak" cards with individuals seeking services or information or with third parties who may reach out on behalf of someone else and explain that they do not speak English.
2. DFEH written intake forms are available in English, Spanish, Korean, Chinese, Vietnamese, Tagalog, and Punjabi. When DFEH receives an intake form in a language other than English, DFEH identifies the filer as one who requires interpretation and translation going forward.
3. Written intake forms include a box where filers or their representatives can indicate the need for interpretation/translation into a specific language other than English. Filers using the online CCRS portal to file can similarly indicate the need for interpretation/translation. These filers are identified as requiring interpretation and translation going forward.
4. The Language Access Coordinator maintains a list of multilingual certified individuals.

### **B. TRANSLATION PROTOCOLS: HOW DFEH IDENTIFIES VITAL DOCUMENTS, AND PROCEDURES THROUGH WHICH DOCUMENTS ARE TRANSLATED**

1. DFEH provides timely and accurate translations of written communications consistently to LEP individuals.
2. All vital written materials are identified for translation and promptly translated. All unanticipated or individualized vital documents are also individually translated or at minimum sight translated. These materials include but are not limited to acknowledgment of intake letters, case closure letters, case determination letters, notices of intake closure, and notices of unsuccessful contact.
3. At a minimum, DFEH determines which languages meet the 5% threshold in an office and statewide and then determines which documents are vital and must be translated. But DFEH goes well beyond this minimum requirement to ensure equal access. DFEH also determines the primary audience for each document and translates it into additional languages if it has available data or experience suggesting that LEP individuals speaking additional languages are a key target audience.<sup>18</sup> If a document requires translation into a language other than English, staff complete a form identifying the language and the document to be translated. Staff send the form to the Language

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<sup>18</sup> For example, the DFEH Hate Violence and Civil Rights brochure is translated into 12 different languages, and the Outreach and Education Unit regularly requests additional translations of written outreach materials based on requests received and its experience with communities seeking resources and information.

Access Coordinator or to the appropriate staff member in the Executive Programs Division, Outreach and Education Unit, if the document is going to go on the website. The Language Access Coordinator or staff member in the Executive Programs Division, Outreach and Education Unit, then sends the document to the contractor to be translated.

4. DFEH is updating its policies and procedures for identifying vital documents to ensure language access requirements are met and will take into account the main audience for various documents and how they are used.
5. The DFEH Language Access Coordinator regularly evaluates the Department's written and web content and works with the DFEH Executive Programs Division and the DFEH Information Technology Division to obtain translations for new or newly edited existing web content in an ongoing effort to improve access for LEP individuals.

### C. IDENTIFICATION OF INDIVIDUALS REQUIRING LANGUAGE ACCESS SERVICES

1. The DFEH is improving methods to identify LEP individuals who access the Department telephonically or in person, building on existing tools like "I Speak" cards, tracking of the need for an interpreter in on-line and paper complaint forms, and the use of in-language prompts on the phones.
2. Relevant public contact employees enter LEP and primary language information for complainants in the Department's case management system, and the Outreach and Education team identifies and tracks language requests before presentations.
3. Upon LEP identification, DFEH takes reasonable steps to conduct all communication using a qualified multilingual staff member, qualified staff or contract interpreter, or through telephonic or video interpretation. Generally, DFEH does not utilize an unofficial interpreter, including an LEP person's family member or friend, except in emergency situations or to obtain non-essential information such as identifying the language the person speaks.<sup>19</sup>

### D. MULTILINGUAL ORAL FLUENCY EXAMINATION AND CERTIFICATION REQUIREMENTS FOR "QUALIFIED" MULTILINGUAL STAFF MEMBERS<sup>20</sup>

1. A multilingual contractor or employee who was tested and certified by a state agency or other approved testing authority as proficient in the ability to understand and convey in

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<sup>19</sup> California Department of Human Resources, Bilingual Services, Requesting Service in Non-English Languages, available at: [Bilingual Services - CalHR](#) "A department may request a family member or minor to interpret for the person only in an emergency situation, or to obtain non-essential information such as identifying the language that the person speaks."

<sup>20</sup> Cal. Gov. Code § 7296; DFEH utilizes Language Line Solutions to conduct bilingual oral fluency exams of our employees. Employees must receive a scoring level of 3 (High Intermediate) in order to receive bilingual pay. Employees who pass the exam are entered into CalHR's Examination and Certification Online System (ECOS) and are designated bilingual public contact positions via form STD 897 to provide an English-equivalent service.

English and a non-English language commonly used terms and ideas, including terms and ideas regularly used in state government; or

2. An interpreter who has met the testing or certification standards for outside or contract interpreters, as proficient in the ability to communicate commonly used terms and ideas between the English language and the non-English language to be used and has knowledge of basic interpreter practices, including, but not limited to, confidentiality, neutrality, accuracy, completeness, and transparency.<sup>21</sup>

## **VI. DFEH TRAINING ON LANGUAGE ACCESS**

### **A. TELEPHONE AND IN-PERSON COMMUNICATIONS**

DFEH is ensuring that training is provided on language access to all newly hired staff during new hire onboarding/training. DFEH is developing training so that all staff have consistent training, instruction, and expectations about documenting and using all available information regarding special language and/or communication needs beginning with the initial contact with an individual who contacts DFEH. Training for public contact employees will include the use of language identification cards to determine the target language, the use of contact lists to reach a qualified public contact employee, and/or to use a telephonic language line to reach a contracted interpreter. Staff are instructed not to rely on an unofficial interpreter or translator provided by LEP persons (such as a family member or friend) unless there is an emergency or except when obtaining non-essential information such as the language spoken by the person.

### **B. EXISTING TRAINING WILL BE UPDATED TO ENSURE DFEH CAPTURES RELEVANT DATA REGARDING INDIVIDUALS WITH LANGUAGE ACCESS NEEDS AND OUR ABILITY TO MEET THEIR NEEDS**

- All training must emphasize accommodations for people with disabilities.

### **C. TRAINING FOR DEPARTMENT MANAGERS TO ASSESS VITAL DOCUMENTS**

- This training will be developed as a part of the update on policies and procedures for identifying and designating vital documents.

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<sup>21</sup> DFEH is currently reviewing its procedures for obtaining an interpreter, including the contracting process for languages where there are few interpreters (e.g., Indigenous languages). The process for obtaining an interpreter can be frustrating for individuals seeking DFEH services, and delays in the process create the risk of complainants deciding not to pursue viable claims or parties or witnesses being unavailable to participate in DFEH investigations, mediations, or prosecutions.

## **VII. MARKETING AND OUTREACH ABOUT LANGUAGE SERVICES AVAILABLE/NOTICES**

### **A. NOTIFICATION IN OFFICES AND ONLINE ABOUT LANGUAGE ACCESS SERVICES OFFERED BY DFEH**

1. DFEH posts multilingual signs or posters in common areas notifying people that DFEH can offer services to meet the language needs of the people we serve.
2. DFEH uses “I speak” cards to ensure that people who walk into a DFEH office know about language access services.

### **B. OUTREACH MATERIALS**

1. DFEH translates written outreach materials into multiple languages for distribution at in person events, during webinars, and for download online.
2. Upon advance request or when the need is apparent to DFEH, the department takes reasonable steps to ensure that public meeting announcements involving DFEH programs and services are available in multiple languages and distributed to media targeting LEPs.
3. Upon advance request or when the need is apparent to DFEH, the department takes reasonable steps to ensure interpretation services and translations of materials are available for all outreach events (such as webinars and other presentations) when necessary due to the target audience.
4. DFEH takes reasonable steps to ensure that the Spanish educational outreach materials are culturally competent, and where resources permit will take reasonable steps to identify other opportunities to ensure educational outreach materials in other languages are culturally competent.

## **VIII. IMPLEMENTATION AND ACCOUNTABILITY PLAN**

### **A. LANGUAGE ACCESS COORDINATOR (LAC)**

The LAC leads the agency staff responsible for implementing the policy directives, developing and modifying the language access plan, and establishing and implementing operational procedures.

### **B. ACCOMMODATIONS REQUEST PROCESS**

Individuals generally request accommodations through any PCE; this request is then relayed to the Language Access Coordinator.

## C. DATA COLLECTION AND MANAGEMENT SYSTEMS

1. DFEH currently captures requests for interpretation or translation when a person files a complaint and is in the process of identifying the most effective and efficient systems for capturing data on language access needs in all interactions with members of the public, including documenting services provided, and the different ways in which DFEH meets language access needs. DFEH is also participating in the state-wide task force on language access.
2. The human resources unit is responsible for overseeing the facilitation of the biennial Dymally-Alatorre Language Survey and submits the Language Survey Tally Sheet as part of DFEH's reporting obligations described below.<sup>22</sup> DFEH's PCEs are required to participate in the biennial language survey. The biennial language survey consists of four phases:

*Phase One Public Contact Employee Demographic Survey – DFEH determines:*

- Number of PCEs by branch and work location.
- For each PCE, their time base and language fluency.
- If PCEs are fluent in languages other than English and if they are certified and/or receiving multilingual pay.

*Phase Two Public Contact Employee Tally Survey – All PCEs are required to tally their public contacts during the survey period and DFEH determines:*

- For each PCE, the number of public contacts, regardless of communication mode (in-person, emails, faxes, letters, telephone, social media, and/or TTY/TTD), during the biennial language survey two-week period.
- The total number of public contacts by branch and reporting unit.
- The identification of each public contact (customer) by the language in which the customer wanted to communicate in.

*Phase Three Data Analysis and Reporting – DFEH HR reports PCEs' demographic data and public contacts during the survey period to the California Department of Human Resources (CalHR) Multilingual Services Program Language Website for calculation and identification of position deficiencies.*

*Phase Four Administrative Compliance of the Dymally-Alatorre Multilingual Services Act – The DFEH Language Access Coordinator oversees the position deficiency analysis and deficiency corrective plan and is responsible for the implementation and reporting of the following supplemental information to CalHR:*

- Number of DFEH translated forms and documents by language.
- Estimated attrition rate of public contact position vacancies.
- DFEH organization chart.

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<sup>22</sup> California Department of Human Resources, Public Contact Employee Information and Language Survey Tally Sheet (CalHR-783), available at: [www.calhr.ca.gov/Documents/calhr-783.pdf](http://www.calhr.ca.gov/Documents/calhr-783.pdf).

- LEP policy
- DFEH mission and vision statements
- Position Deficiency Analysis (if applicable)
- Actual Position Deficiency Corrective Plan (if applicable)
- “Units by Reporting Group/All Reporting Groups” report
- Print out of Language Survey Responses
- Identification of Materials Required to be Translated
- Written Materials Deficiency Corrective Plan

## D. COMPLAINT EVALUATION AND MONITORING

1. DFEH accepts complaints online, in writing, or by phone. Information about filing a complaint or getting additional assistance is on the DFEH website at: [www.dfeh.ca.gov/languageservices-2/#troubleBody](http://www.dfeh.ca.gov/languageservices-2/#troubleBody).
2. Complaints about alleged violations of the requirement to make available translated documents or to provide interpreter services are referred to our Executive Programs Division, which logs the complaint and assigns it to the correct Division/Staff to respond.
3. The assigned staff reviews the complaint, researches any additional information, and makes a determination if the department followed policy or not. If not, we take appropriate and corrective action. The responsible party also writes back to the person who complained, informing them of their findings and then closes the case out on their complaint log.
4. When processing language access complaints, DFEH reviews its response practices to language access complaints or suggestions by LEP individuals and works to ensure that we respond to all complaints fully and efficiently.
5. The Language Access Coordinator and DFEH HR ensure that DFEH employees are following proper policy and procedures to provide meaningful access to LEP individuals.
6. If an LEP individual believes that they have not been provided with the requested information or services, the individual has the right to make a complaint against the DFEH by calling the California Department of Human Resources (CalHR) at 866-889-3278. Additional information about the complaint process with the Office of Civil Rights for CalHR is available at: [www.calhr.ca.gov/state-hr-professionals/pages/bilingual-services.aspx](http://www.calhr.ca.gov/state-hr-professionals/pages/bilingual-services.aspx).

## IX. PLAN UPDATING AND PERFORMANCE MEASURES

### A. BASED ON THE MOST RECENT LANGUAGE NEEDS SURVEY, DFEH IS IN COMPLIANCE WITH THE DYMALLY-ALATORRE ACT

DFEH conducts the language needs survey every two years in even numbered years and will update its Language Access Plan in the odd-numbered year following the year when the survey is conducted.

### B. PERFORMANCE MEASURES

DFEH is developing a list of performance measures with respect to language access, which will include benchmarking current levels of services and capturing data to identify whether we are meeting needs.

## X. LANGUAGE ACCESS FUTURE INITIATIVES

<i>What</i>	<i>Date to be Completed</i>	<i>Who</i>
Summarize data from outreach confirmation forms and consider tracking systems for other public contacts to capture requests for language access and accommodations are captured outside of the complaint intake process. (Case management systems capture requests for language access services when a complaint is filed.)	4/1/2023	ENF/Training/IT
Update and standardize all training on language access (on-boarding and on-going) to reflect this updated Language Access Plan.	4/1/2023	ENF/Training Unit
Update Performance Metrics for Language Access Plan	4/1/2023	Language Access Coordinator

Review of online and written materials to ensure consistent taglines in-language when indicating that language access services are available.	4/1/2023	IT/Language Access Coordinator/ Executive Programs
Priority-setting on existing Documents to Translate for 2023-24.	10/1/2022	Language Access Coordinator and Executive Programs
Update plans and contracts to continue to meet growing Indigenous language access needs.	6/1/2022	Language Access Coordinator
Review usage of all documents available on-line in different languages and use data to inform additional language access services to provide.	4/1/2023	Language Services Coordinator/Executive Programs