

Office of the Environmental Justice Public Advocate



MICHIGAN DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES, AND ENERGY

# Limited English Proficiency Plan

September 2020



MICHIGAN DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES, AND ENERGY

Office of the Environmental Justice Public Advocate

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# Limited English Proficiency Plan

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## I. Preface

The state of Michigan is home to people of different cultures, ethnicities, races, and backgrounds. Language differences should not be a barrier to engagement and participation. Everyone in Michigan deserves meaningful access and equitable opportunity to participate in and provide input on the Michigan Department of Environment, Great Lakes, and Energy's (EGLE) programs, activities, and services. EGLE's Limited English Proficiency (LEP) Plan (Plan) was developed to ensure access for all.

The EGLE LEP Plan establishes department-wide guidance to provide LEP individuals with meaningful access to EGLE actions programs, projects, services, or activities in a timely and effective manner. The Plan was developed to be consistent with:

1. EGLE's commitment to provide meaningful access to LEP individuals;
2. EGLE's mission to protect the environment and public health by managing air, water, land, and energy resources;
3. Title VI of the Civil Rights Act of 1964<sup>1</sup>;
4. Title VI implementing regulations and guidance documents; and
5. Executive Order 13166 (EO 13166)<sup>2</sup>.

## II. Introduction

Under federal law, recipients of federal financial assistance, including EGLE, are required to comply with the applicable provisions of Title VI of the Civil Rights Act of 1964<sup>3</sup>, as well as implementing regulations developed by the relevant federal agency, here, the United State Environmental Protection Agency (EPA).<sup>4</sup> Title VI and EPA's implementing regulations prohibit discrimination on the basis of race, color, or national origin in any programs or activities receiving federal financial assistance. EPA interprets its Title VI regulations to require all recipients of EPA assistance to provide meaningful access to LEP individuals.

Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. By federal regulation, Title VI covers the recipient's entire program or activity. This means all parts of a recipient's operations are covered, even if only one part of the recipient's organization receives the federal assistance.

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<sup>1</sup> [www.justice.gov/crt/fcs/TitleVI-Overview](http://www.justice.gov/crt/fcs/TitleVI-Overview)

<sup>2</sup> See [www.gpo.gov/fdsys/pkg/FR-2000-08-16/pdf/00-20938.pdf](http://www.gpo.gov/fdsys/pkg/FR-2000-08-16/pdf/00-20938.pdf).

<sup>3</sup> 42 U.S.C. §§ 2000d to 2000d-7

<sup>4</sup> 40 CFR Part 7

On August 11, 2000, President William Jefferson Clinton signed Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (EO 13166), Exec. Order No. 13,166, 65 C.F.R. 50,121 (2000). EO 13166 requires federal agencies to: 1) examine the services they provide, identify any need for services to those with LEP, and develop and implement a system to provide those services so LEP persons can have meaningful access to them, and, most relevant here, 2) work to ensure that recipients of federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.

To facilitate understanding of EO 13166 and entities' obligations under federal law, the Department of Justice, in coordination with other federal agencies, developed [www.lep.gov](http://www.lep.gov), which is a resource designed to help federal agencies and recipients of federal financial assistance provide meaningful access to LEP individuals.

The federal agencies from which funds are provided, here EPA, also have LEP Guidance that provides a framework to help guide recipients' actions related to LEP individuals. On June 25, 2004, the EPA published the *Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Individuals*<sup>5</sup> (EPA LEP Guidance). The Guidance provided a general framework that EPA recipients may use to provide meaningful access to LEP individuals.

EGLE is dedicated to providing equitable services for all Michiganders. The development, application, and updating of this Plan is to provide a framework for EGLE to take reasonable steps to provide meaningful access to LEP individuals by:

1. Removing language barriers.
2. Improving customer service.
3. Providing guidance for department staff.
4. Providing high-quality communications for linguistically diverse audiences.

### III. Definitions

**Bilingual Staff Member** – A department staff member who has demonstrated proficiency in and ability to communicate information accurately in both English and at least one other language. A bilingual staff member may speak or write directly to a LEP individual in a language other than English.

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<sup>5</sup> See [www.gpo.gov/fdsys/pkg/FR-2004-06-25/pdf/04-14464.pdf](http://www.gpo.gov/fdsys/pkg/FR-2004-06-25/pdf/04-14464.pdf).

**Effective Communication** – Communication sufficient to provide the LEP individual with meaningful access to programs, activities, services, and information received by individuals who are not LEP. For example, if EGLE creates a frequently asked questions document in English to help an impacted community understand its actions, then such information should be translated into prominent languages to allow LEP individuals access to the same information.

**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.

**Interpreter** – An individual who conveys meaning orally from one language (the source language) into another (the target language).

**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 types of communication (e.g., reading or writing).

**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 reasonable efforts to provide language assistance services to ensure that LEP individuals have substantially equal access to EGLE programs and activities.

**Primary Language** – An individual’s primary language is the language in which an individual most effectively communicates.

**Program or Activity** – The term “program or activity” and the term “program” refer to all department operations.

**Translation** – The replacement of written text from one language (source language) into an equivalent written text in another language (target language).

**Translator** – An individual who conveys written text from one language (source language) into the equivalent in written text in another language (target language).

**Vital Document** – Paper or electronic material that is critical for access to the department’s programs, activities, and services, or contains information about procedures or processes required by law. Classification of a document as “vital” depends upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP individual if the information in question is not provided accurately or in a timely manner.

## IV. Elements of an Effective LEP Policy

### 1. Identifying LEP individuals who need language assistance.

EGLE divisions and district offices provide the program and project-level basis for determining the need for public involvement and public engagement. Many methods are used for identifying LEP individuals, including prior interaction with LEP individuals; use of demographic information; coordination with other agencies; and outreach to stakeholders.

### 2. Identifying ways in which language assistance will be provided.

EGLE will take reasonable steps to ensure that vital documents are translated or interpreted into languages of LEP individual(s) affected. EGLE will also take reasonable steps to ensure communication is conducted with the use of a qualified contract interpreter, or translator, or a bilingual staff member.

### 3. Training staff

All new employees and current EGLE staff will be trained on the following subjects:

- Environmental justice principles.
- Federal nondiscrimination requirements.
- Department responsibilities to LEP individuals.
- Language assistance services offered by the department.
- Procedures for identifying language needs and providing language assistance.
- Documentation of requests for language assistance and services provided.
- Procedures for handling complaints regarding language assistance.

### 4. Providing notice to LEP individuals.

After LEP populations have been identified, strategies will be developed to provide notice of a program, service, or activity, using appropriate media. Community groups serving LEP populations will be contacted, as well as schools, church groups, chambers of commerce, and other relevant entities.

## V. Four Factor Analysis

The EPA's LEP Guidance provides a flexible and fact dependent four-factor analysis to help recipients determine whether they are taking reasonable steps to ensure meaningful access to their programs and activities by LEP individuals. This assessment will be individualized to both the recipient and the recipient's programs and activities, as what steps are reasonable is dependent on both the recipient and the program and activity at issue.

EGLE will use information provided in the four-factor analysis to proactively determine the need for language services without first requiring a request from the public to provide language assistance.

### **Factor 1: Number or proportion of LEP individuals in Michigan eligible to be served or likely to encounter EGLE services.**

The greater the number or proportion of LEP individuals, the more likely language services will be needed. EGLE should consider minority populations that are eligible for their programs or activities but may be underserved because of existing language barriers. Records of the number or proportion of people with LEP who seek services from the program shall be maintained.

The U.S. Census Bureau has four classifications of how well people speak English:

- (1) "very well"
- (2) "well"
- (3) "not well"
- (4) "not at all"

EGLE will consider individuals who speak English less than "very well" as LEP. According to the U.S. Census Bureau 898,817 (9.6 percent) of Michiganders speak a language other than English at home. As shown in the table below, the top five languages spoken in Michigan are Spanish (279,967), Arabic (138,749), Chinese, including Mandarin and Cantonese, (50,366), German (32,315), and Amharic, Somali, other Afro-Asiatic languages (33,265).<sup>6</sup> The Michigan Department of Civil Rights' Division on Deaf, DeafBlind, and Hard of Hearing's Not Without Us Census and Needs Assessment estimated 733,356 (7.4 percent) of Michiganders are deaf,

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<sup>6</sup> U.S. Census Bureau, 2014-2018 American Community Survey 5-Year Estimates, Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over, Michigan, Table B16001 (<https://data.census.gov/cedsci/table?hidePreview=true&tid=ACSDT5Y2018.B16001&vintage=2018&tp=false&g=0400000US26&moe=false>)

deafblind, and hard of hearing.<sup>7</sup> EGLE should also consider languages not identified by the U.S. Census Bureau but still relevant in Michigan, as well as consider different dialects of languages spoken.

| Language Spoken at Home<br>(Population 5 years and over) | # of individuals |
|--|------------------|
| <b>Total</b>   | 9,385,114        |
| <b>Speak only English</b>                                | 8,486,297        |
| <b>Spanish</b>   | 279,967          |
| Speak English “very well”                                | 183,923          |
| Speak English less than “very well”                      | 96,044           |
| <b>Arabic</b>  | 138,749          |
| Speak English “very well”                                | 80,296           |
| Speak English less than “very well”                      | 58,453           |
| <b>Chinese (Mandarin &amp; Cantonese)</b>                | 50,366           |
| Speak English “very well”                                | 25,057           |
| Speak English less than “very well”                      | 25,309           |
| <b>German</b>  | 32,315           |
| Speak English “very well”                                | 27,240           |
| Speak English less than “very well”                      | 5,075            |
| <b>Amharic, Somali, other Afro-Asiatic languages</b>     | 33,265           |
| Speak English “very well”                                | 18,934           |
| Speak English less than “very well”                      | 14,331           |

The Map App on [LEP.gov/maps](http://LEP.gov/maps) provides an interactive tool to help users find the number of and languages spoken by LEP individuals. The U.S. Environmental Protection Agency, Environmental Justice Screening and Mapping Tool (EJSCREEN) is also a good tool for identification of linguistically isolated or LEP households and provides information on languages spoken (Add Maps>More Demographics>Category>Language).

<sup>7</sup> [https://notwithoutusmich.org/wp-content/uploads/2019/09/MDCR-NWU-Viewbook\\_FINAL\\_09182019.pdf](https://notwithoutusmich.org/wp-content/uploads/2019/09/MDCR-NWU-Viewbook_FINAL_09182019.pdf)

The following table shows counties in Michigan having the highest total LEP individuals (speak English less than “very well”)<sup>8</sup>. EGLE will consider these counties as priority LEP counties. The likelihood of programs, activities, and services in these counties to encounter LEP populations is higher.

| County    | Total LEP (Percent of Total Population) |
|-----------|---|
| Wayne     | 94,038 (37.6%)                          |
| Oakland   | 55,730 (4.7%)                           |
| Macomb    | 46,380 (5.6%)                           |
| Kent      | 30,750 (5.0%)                           |
| Washtenaw | 15,631 (4.4%)                           |
| Ingham    | 12,900 (4.7%)                           |

EGLE will consider the geographic scope of its programs, activities, and services when determining the number or proportion of LEP individuals likely to be encountered or impacted. For example, if making a decision on a proposed permit, EGLE will determine if LEP populations exist near the facility. Identification of LEP populations can be accomplished by examining the most recent census data, using the tools described above, and contacting EGLE district staff, local governments agencies, community-based organizations, community members, and others.

All EGLE staff interacting with the public must consider the number and percent of individuals with LEP for inclusion in public involvement. For each action, an assessment will be conducted to determine the number of LEP, minority, and low-income populations to ensure meaningful access. EGLE’s Policy No. 09-024, Nondiscrimination in EGLE Programs and Policy No. 09-007, Policy on Public Involvement in Department Decisions will also be followed to ensure all groups have notification and access.

### **Factor 2: The frequency with which LEP individuals encounter an EGLE program, activity, or service.**

EGLE will assess, as accurately as possible, the frequency they have or should have contact with LEP individuals seeking assistance. The information will be gathered by EGLE staff who interact with community members on a regular basis. The need for enhanced language services will be based on:

- The frequency of staff contact with a language group.
- How often people with limited English proficiency seek services from a program.
- The type of language services needed.

<sup>8</sup> American Community Survey, 2018: 1-Year Estimates, TableID S1601

EGLE's mission is carried out by its various divisions, offices, and districts.<sup>9</sup> Given the varied activities and services of EGLE's divisions and offices, the type and frequency of contact and interaction with the public and LEP individuals varies. In response to this, each of EGLE's divisions and offices will take reasonable steps to ensure LEP individuals have meaningful access to all programs and activities. The Office of the Environmental Justice Public Advocate will consult with divisions and offices as needed.

### **Factor 3: The nature and importance of EGLE program, activity, or service to the LEP population.**

EGLE shall consider the importance and/or urgency of the activity undertaken. The more important or urgent the service, the greater the need to provide enhanced language services. EGLE should determine whether the denial or delay of access to programs, activities, services, or information could have immediate and or severe impacts on LEP individuals. For example, communicating information to LEP individuals who may be adversely impacted by an immediate water source contamination or release of airborne toxic chemicals differs from the need to provide information on efforts to increase recycling.

### **Factor 4: The resources available to EGLE and the overall cost to provide LEP assistance.**

EGLE will consider the level of resources and the costs to provide language assistance services. When cost concerns limit the ability to provide services, EGLE will explore other options including coordination with other government and non-governmental agencies, exploring new resources and emerging technology, and other mechanisms for ensuring meaningful access for individuals who are LEP. Funds available for LEP services would be derived entirely from existing EGLE operating funds and will vary depending on the program and services provided.

## **VI. Safe Harbor**

The EPA LEP Guidance provides a "safe harbor" standard. Strong evidence of compliance with the recipient's written-translation obligations under "safe harbor" includes providing written translations of vital documents for each eligible LEP language group constituting 5 percent or 1,000 people, whichever is less, of the population of individuals eligible to be served or likely to be affected or encountered.

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<sup>9</sup> See EGLE's Organizational Chart at [Michigan.gov/EGLE](https://www.michigan.gov/EGLE)

EGLE's translation of other documents, if needed, can be provided orally.

The "safe harbor" standard applies to the translation of written documents only. It does not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and are reasonable.

EGLE will use the safe harbor standard as a guide when deciding when written translation should be provided.

## VII. Providing Notice to LEP Individuals

EGLE will do the following to ensure LEP individuals are informed regarding services available:

- Develop outreach brochures and flyers, available in languages other than English that state language access services available.
- Provide translation of information and documents in plain language whenever possible and ensure that technical language and terms are defined.
- Provide information and notice on non-English language radio and television stations, newspapers, and social media.
- Engage with LEP individuals, community-based organizations, migrant worker organizations, agencies working with individuals who are deaf, deafblind, or hard of hearing, to provide notice about EGLE programs, services, and activities, as well as to get feedback on meaningful language assistance.
- Publish the LEP Plan and other materials, as well as information on how to access language assistance services on EGLE's website.
- Provide information and notice to community organizations, governmental entities, and other interested individuals; also, in languages other than English. This will give them the opportunity to advise EGLE of any LEP needs.
- With advance notice of at least 14 calendar days, EGLE will provide translation and interpreter services at any meeting or public hearing. Interpreter services will include foreign language and signs for the hearing impaired. EGLE will also consider and accommodate requests with less than 14 calendar days when possible.
- Provide the following statement on public notices and in publications used by individuals with LEP, as outlined in the department's Policy on Public Involvement in Department Decisions, including in languages other than English:

“Individuals needing language assistance or accommodations for effective participation at the meeting/hearing [choose which is appropriate] should contact [insert contact name and phone number] by [insert date two weeks in advance of the meeting/hearing date] to request language, mobility, visual, hearing, translation, and/or other assistance.”

- Provide information in various languages giving notice of language assistance services and rights in public places and at public meetings.
- Provide training to EGLE staff on the requirements for providing meaningful access to programs, activities, services, or information for LEP individuals in languages other than English.
- Maintain a contact list of bilingual staff and interpretation and translation providers.
- Distribute the U.S. Census Bureau I-Speak Language Identification Cards to field personnel who may encounter LEP persons while performing their day-to-day job functions. I-Speak Cards may be obtained at [www.lep.gov/ISpeakCards2004.pdf](http://www.lep.gov/ISpeakCards2004.pdf).

## VIII. Selecting Language Assistance Services

There are two main ways of providing language services: oral interpretation (in person or via telephone interpretation service) and written translation. Quality and accuracy of the language service is critical. Upon completion of the four-factor analysis, EGLE shall determine the necessary and reasonable balance between the two.

EGLE will primarily rely on qualified contracted interpreters and translators for both written translation and interpretation services. EGLE will develop a Language Team comprised of bilingual staff to help with reviewing translated documents for accuracy and provide support interacting with LEP individuals. EGLE staff will work with their liaisons in the Environmental Support Division and/or the Office of the Environmental Justice Public Advocate to determine when and how language assistance services will be provided.

EGLE will not utilize machine translation, such as Google Translate, under any circumstances.

The following methods of providing interpretation and translation services shall be considered and used based upon the assessment of need for EGLE:

1. Contracting and hiring qualified interpreters and translators. EGLE will primarily rely on these services when providing language assistance. EGLE will utilize contractors who are qualified and/or certified to communicate in both English and the LEP language, have knowledge of specialized terms in both languages, and understand and follow the relevant confidentiality rules.
2. Bilingual staff who are qualified and/or certified to communicate in both English and the LEP language and have received training in proper interpretation and translation protocol. EGLE staff who volunteer to be a part of the Language Team will primarily provide support to ensure the accuracy of translated documents and interaction with LEP individuals.
3. Using telephone (or video conferencing) interpreter services. These services may be needed when holding virtual meetings or events.
4. Partnering with other departments, agencies, or community volunteers that provide services to LEP individuals to maximize resources and to ensure that language services provided fit the need of the community being served.
5. Using family members or friends. EGLE will not rely on an LEP individual's family members, friends, or other informal interpreters to provide meaningful access to important programs and activities. LEP individuals may choose to use, at their own expense, an interpreter of their choosing in place of, or as a supplement to, the language services EGLE provides.

### **Oral Language Services (Interpreters)**

EGLE will primarily rely on contracting with qualified interpreters. Bilingual EGLE staff may also be used to help support the use of contracted interpreters. When using interpreters EGLE will ensure they demonstrate proficiency in and ability to communicate information accurately in both English and in the other language, have knowledge in both languages of any specialized terms or concepts, and understand and follow confidentiality and impartiality rules.

## Written Language Services (Translation)

Vital Documents: Classification of a document as “vital” depends upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP individual if the information in question is not provided accurately or in a timely manner. The determination of what documents are considered “vital” is determined by division and program offices. Documents classified as “vital” generally fall into two broad categories: specific written communication regarding a matter between an individual and division or program office and documents primarily geared toward the general public or a broad audience.

A program needs to determine whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual. Decisions by a program to make an activity, warning, or notice compulsory, such as particular educational programs on lead-based paint and children, can serve as strong evidence of the program’s importance.

It may be difficult to determine vital and non-vital documents, particularly when considering outreach or other documents designed to raise awareness of rights or services. Though meaningful access to a program requires an awareness of the program’s existence, we recognize it would be nearly impossible to translate every piece of outreach material into every language. Title VI does not require this of recipients of federal financial assistance, and Executive Order 13166 does not require it of federal agencies.

In some circumstances, lack of awareness of the existence of a program may deny LEP individuals meaningful access. It is important for EGLE to regularly assess the needs of eligible service populations to determine whether critical outreach materials should be translated.

Translation of written communication is to provide the LEP individual with meaningful access to critical information. As an example, LEP individuals may submit a discrimination complaint to EGLE in a non-English language and in this circumstance EGLE must respond to the LEP individuals in their primary language.

With respect to documents intended for public outreach or a broad audience, each division and program office should translate “vital” documents for LEP individuals where a significant percentage of the population is served or affected by the office’s actions.

Some examples of vital documents intended for public outreach or a broad audience, or communication between an individual and division or program office, may include, but are not limited to, the following:

- Brochures
- Fact sheets
- Question & Answer documents
- Press releases
- Environmental reports
- Final agency decisions
- Information pertaining to natural disasters and emergency response efforts
- Consent and complaint forms
- Written notices of rights, denial, loss, or decreases in benefits or services
- Notices of disciplinary action, environmental hazards, or cease and desist orders
- Notices advising LEP persons of free language assistance
- Consumption advisories
- Residential Lead-Based Paint Disclosure Program forms and pamphlets

## IX. LEP Plan Access

EGLE will post the LEP Plan on its website at [Michigan.gov/EGLE](https://Michigan.gov/EGLE) in English, Arabic, and Spanish. Additional interpretation and/or written translation will be provided upon request. For those without personal internet service, copies of the LEP Plan will be provided upon request by contacting:

**EGLE Nondiscrimination Compliance Coordinator**

P.O. Box 30473

Lansing, Michigan 48909-7973

517-249-0906 | [EGLE-NondiscriminationCC@michigan.gov](mailto:EGLE-NondiscriminationCC@michigan.gov)

## X. Monitoring and Updating the EGLE LEP Plan

The Nondiscrimination Compliance Coordinator in the Office of the Environmental Justice Public Advocate will be responsible for overseeing, monitoring, and updating this Plan. The Plan will be reviewed and updated at least on an annual basis. Ongoing public input will continue to be taken into consideration on an ongoing basis.

As part of monitoring the Plan, EGLE will collect data on the following:

- Language services requested (including by whom)
- Language services provided
- Languages requested or provided
- Purpose
- Target audience/location
- Cost
- Whether assistance was provided by EGLE Language Team
- Challenges encountered and how they were resolved

EGLE will examine and update its LEP Plan based on the following:

- Changes in demographics as reported by the American Community Survey and Census
- The number of LEP individuals who were encountered annually
- Ensuring the needs of LEP individuals can be addressed
- An evaluation of EGLE's programs and services offered to meet the needs of LEP individuals
- The receipt of complaints concerning the agency's failure to meet the needs of LEP individuals
- Feedback from stakeholders, the community, and LEP individuals, including the Michigan Advisory Council on Environmental Justice
- Best practices to further enhance language assistance services