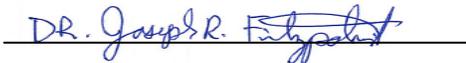


<b>POLICY TITLE: STAFF COMMUNICATION WITH PERSONS WITH LIMITED ENGLISH PROFICIENCY</b> <b>POLICY NUMBER: 1.10</b> <b>CHAPTER 1: ADMINISTRATION, ORGANIZATION, AND MANAGEMENT</b>		<b>PAGE 1 OF 6</b>
	<b>STATE of MAINE</b> <b>DEPARTMENT OF CORRECTIONS</b>  <b>Approved by Commissioner:</b> 	<b>PROFESSIONAL STANDARDS:</b>  <b>See Section VII</b>
<b>EFFECTIVE DATE:</b> <b>May 15, 2013</b>	<b>LATEST REVISION:</b> <b>December 14, 2015</b>	<b>CHECK ONLY IF</b> <b>APA [ ]</b>

## I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

## II. APPLICABILITY

Entire Maine Department of Corrections

## III. POLICY

It is the policy of the Department of Corrections to provide equal access to programs and services for persons whose primary language is not English (persons with limited English proficiency).

## IV. CONTENTS

Procedure A: Persons with Limited English Proficiency, General  
 Procedure B: Interpreter Services Related to Clients  
 Procedure C: Bilingual Staff Expectations  
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## V. ATTACHMENTS

None

## VI. PROCEDURES

### Procedure A: Persons with Limited English Proficiency, General

1. The Deputy Commissioner, or designee, or Associate Commissioners, or designees, shall ensure that, within the areas of their respective responsibilities, persons with limited English proficiency are provided qualified interpreter services as needed.

2. A person with limited English proficiency is a person whose primary language is not English and who is unable to or has difficulty with speaking or understanding English beyond basic day-to-day conversation. This includes persons who have a limited ability to read and/or write English or may be able to speak and/or understand some English in a specific setting but not in others. Usually, persons with limited English proficiency are those for whom English is not their native language.
3. In each public area of a Department facility or office (i.e., lobby or reception area), there shall be posted and maintained a sign consisting of various languages informing members of the public who are persons with limited English proficiency of qualified interpreter services available at no charge to them.
4. In each Department facility or office, there shall also be maintained a list of qualified staff interpreters, if any.
5. Each facility Chief Administrative Officer and each community corrections Regional Correctional Administrator, as well as the Deputy Commissioner and Associate Commissioners, shall designate staff who are responsible to ensure the provision of qualified interpreter services.
6. Designated staff shall be trained in the following:
  - a. This policy and procedures;
  - b. Accessing telephone interpreter services and in-person interpreter services; and
  - c. Ethnic and cultural differences and their effects on communication.
7. Qualified interpreter services may include providing a qualified in-person or telephone interpreter through an interpreter service or a departmental staff member qualified as an interpreter. A qualified interpreter is a neutral bilingual third party fluent in both English and the target language and trained to convey a spoken communication between two or more parties who do not share a common language and who does so accurately and without changing its meaning.
8. Any time a departmental staff member has reason to believe that an interpreter provided by the Department is not providing accurate and neutral communication, is otherwise hampering effective communication between staff and a person with limited English proficiency, or poses a safety risk, staff shall obtain another interpreter and report concerns to the appropriate staff person designated to ensure the provision of qualified interpreter services and to the interpreter services agency, if any.

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9. When a member of the public requests or otherwise indicates to staff the need for interpreter services, the staff shall make the arrangements for a qualified interpreter.
10. The staff shall determine which form of interpreter services to make available to the member of the public, with a preference for a qualified staff interpreter when available. If a qualified staff interpreter is not available, telephone interpreter services are available 24 hours a day, seven days a week, and are to be the next preference.
11. If the person's primary language is not one of those included on the sign, staff shall use a telephone interpreter service to inform the person of the availability of qualified interpreter services at no cost.
12. Complaints of discrimination against persons with limited English proficiency, including complaints of failure to comply with this policy and procedures, shall be handled in accordance with Department Policy 1.6, Prohibition on Discrimination. If the complaint is by a person with limited English proficiency, the staff attempting to resolve the complaint shall provide interpreter services and translated documents as needed during the complaint process.

**Procedure B: Interpreter Services Related to Clients**

1. In each Department facility and community corrections office, there shall be maintained a sufficient supply of language identification cards so that each staff member has at least one card, consisting of various languages, to be used for informing prisoners/residents/community corrections clients and persons involved with clients of qualified interpreter services available at no charge to them.
2. At initial contact with staff, if a prisoner, resident, community corrections client, parent, legal guardian, family member, or other person involved with a client is non-communicative, exhibits limited English skills (broken English), has a heavy accent, or asks one-word questions or uses one-word answers, the staff shall consider the possibility that the person may have limited English proficiency.
3. If the person is determined to have limited English proficiency, the staff shall determine the person's primary language by using the language identification card or by calling a telephone interpreter service to determine the person's primary language.
4. In addition, a Juvenile Community Corrections Officer who has received a referral from a law enforcement officer for preliminary investigation of a juvenile shall, if there is any indication that the juvenile has limited English proficiency, take appropriate steps to determine if this is true and to determine the juvenile's primary language, if possible prior to the initial contact with the juvenile.

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5. Once it has been determined that a person has limited English proficiency and the person's primary language has been determined, staff shall use a language identification card to inform the person and, if the person has not attained the age of 18 years or is an adult with a guardian, the person's parent or guardian, that the person has the right to have qualified interpreter services at no cost to the person.
6. If the person's primary language is not one of those included on the language identification card, staff shall use a telephone interpreter service to inform the person of the availability of qualified interpreter services at no cost.
7. In addition, at this time, if the person with limited English proficiency is a client, a notation shall be made by staff in CORIS to reflect the fact of the person's limited English proficiency, and what his or her primary language is, and interpreter needs.
8. When a client or parent, legal guardian, family member, or other person involved with a client who has been identified as having limited English proficiency accepts an offer of qualified interpreter services or requests or otherwise indicates to staff the need for interpreter services, staff shall make arrangements for a qualified interpreter, unless there is another equally effective way of communicating.
9. The determination whether there is another equally effective way of communicating, other than interpreter services, such as the use of supplemental gestures or visual aids, shall depend on the circumstances, length, complexity, and importance of the communications as well as the communication skills of the person with limited English proficiency.
10. The staff shall determine which form of interpreter services to make available, with a preference for telephone interpreter services. In-person interpreter services by a qualified interpreter are to be the next preference, provided that a staff interpreter, regardless of qualification, is not to be used as an interpreter for a client or a person involved with a client except in an emergency (a situation in which life, health, or safety of clients or others may be in immediate jeopardy). In an emergency such a staff member may be used as an interpreter until such time as a qualified interpreter becomes available.
11. The staff shall document in CORIS the type of interpreter used (e.g., interpreter from a telephone interpreter service, in-person interpreter, or staff interpreter), the name of the interpreter and the situation that required the use of an interpreter.
12. The staff shall document in CORIS if a client or person involved with a client declines an offer of free qualified telephone or in-person interpreter services provided by the Department or if no interpreter was used for another reason and why.

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13. If a client or person involved with a client requests the use of an interpreter provided by himself or herself, staff may agree to the use of the proposed interpreter when the use of the individual would not pose a risk to safety and is otherwise deemed appropriate. The use of such an individual is not appropriate when the staff reasonably believes that the proposed interpreter is not willing and able to provide accurate and neutral communication between the parties.
14. If at any time staff have reason to believe that an interpreter provided by a client or person involved with a client is not providing accurate and neutral communication, is otherwise hampering effective communication between staff and the person with limited English proficiency, or poses a safety risk, staff shall obtain a qualified interpreter in substitution for the person's preferred interpreter.
15. If a client or person involved with a client requests the use of an interpreter provided by himself or herself, it shall be documented in CORIS, along with the name of the person proposed as an interpreter, whether the staff agrees to the proposed interpreter, and the reason(s) for staff agreeing or not agreeing.
16. Staff shall inform a person who has declined qualified interpreter services provided by the Department that he or she has the right to request qualified interpreter services provided by the Department at any subsequent time.
17. A minor may never be used as interpreter under any circumstance. In addition, a client may never be used as interpreter under any circumstance.

**Procedure C: Bilingual Staff Expectations**

1. A staff member who is sufficiently proficient in a language other than English (can perform his or her job functions directly in another language without the services of an interpreter) is encouraged to use the other language in communicating directly with a client or a person involved with a client in whose primary language the staff member is proficient.
2. Except in an emergency (a situation in which life, health, or safety of clients or others may be in immediate jeopardy), a staff member who is proficient in a language other than English is prohibited from providing interpreter services for a client or a person involved with a client. In an emergency such a staff member may be used as an interpreter until such time as a qualified interpreter becomes available.
3. A departmental staff person who is also a qualified interpreter may not accept interpreting assignments or jobs from provider agencies with whom the State contracts.

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## **Procedure D: Translation of Documents Related to Clients**

1. The Commissioner shall designate staff to determine which documents used by the Department must be translated into one or more languages other than English. Translation is the process of writing or otherwise conveying a document in a language different from the original language accurately and without changing its meaning by a neutral, trained and qualified translator. To ensure accuracy, a translated document must be back-translated by a different translator into English and compared to the original document.
2. The determination whether to have a document translated shall depend on the languages used by a particular program or service's clients, the number of clients using a particular language, and whether the document is considered essential. Pre-recorded audio or video translations may be used in lieu of translated printed material when it is not necessary that the client retain a copy of the document.
3. In the event no written, audio, or video translation of a document is available, staff shall ensure that telephone translation or in-person translation by a qualified interpreter is provided to the client in a timely manner.

## **VII. PROFESSIONAL STANDARDS**

### **ACA:**

- ACI - 4-4288** Written policy, procedure, and practice provide that new inmates receive written orientation materials and/or translations in their own language. When a literacy problem exists, a staff member assists the inmate in understanding the material. Completion of orientation is documented by a statement signed and dated by the inmate.
- 4-JCF-5A-03** Juveniles are provided with programming, including education, during the reception period. New juvenile offenders receive written orientation materials and/or translations in their own language if they do not understand English. When a literacy problem exists, a staff member assists the juvenile in understanding the material.

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