

RESOLUTION AGREEMENT  
BETWEEN  
U. S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE FOR CIVIL RIGHTS, EASTERN & CARIBBEAN REGION  
AND  
ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES

**I. Introduction**

This Resolution Agreement (Agreement) is entered into by the United States Department of Health and Human Services (USDHHS), Office for Civil Rights (OCR) and the Erie County Department of Social Services located in Buffalo, New York. This Agreement resolves a complaint, transaction number 13-161750, filed with OCR on June 28, 2013, by the Neighborhood Legal Services (the complainant), on behalf of [REDACTED] (affected parties) alleging that Erie County Department of Social Services failed to provide language assistance and important documents to the affected parties in their native languages of Karen and Burmese.

**A. Parties to Agreement**

1. United States Department of Health and Human Services, Office for Civil Rights.
2. Erie County Department of Social Services in Buffalo, New York.

**B. Jurisdiction**

Erie County Department of Social Services receives Federal financial assistance from the USDHHS, and is subject to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, and its implementing regulations, 45 C.F.R. Part 80 (collectively referred to in this agreement as Title VI). Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving Federal financial assistance. The implementing regulations prohibit both intentional discrimination and policies and practices that appear neutral but have a discriminatory effect. Policies that have an adverse effect on the ability of national origin minorities to meaningfully access services may also constitute a violation of Title VI.

**C. Purpose of Agreement**

1. To resolve these matters expeditiously and without further burden or expense of investigation or litigation, Erie County Department of Social Services agrees to the terms stipulated in this Agreement and affirms its assurance of compliance with all provisions of Title VI. The promises, obligations or other terms and conditions set forth in this Agreement constitute the exchange of valuable consideration between Erie County Department of Social Services and OCR.

2. This Agreement shall not be construed as an admission or as evidence that Erie County Department of Social Services has not complied with those provisions of Title VI that relate to language assistance services provided to persons with limited English proficiency with respect to the allegations in the subject complaint.

## II. Definitions

For the purpose of this Agreement, the terms listed below shall have the following meaning:

- A. **Applicant** means any person who inquires about or submits an application for public assistance benefits under any Erie County Department of Social Services program or service.
- B. **Contractor** means any entity that performs work or provides services on behalf of Erie County Department of Social Services under a contractual agreement with reimbursement, which includes monies allocated to Erie County Department of Social Services as Federal financial assistance from HHS.
- C. **Frequently-Encountered Language** means any language spoken by a significant number or percentage of the population eligible to be served or likely to be encountered by Erie County Department of Social Services' programs and services.
- D. **Individual with Limited English Proficiency (LEP)** means an individual who does not speak English as his or her primary language and who has a limited ability to read, write, speak or understand English.
- E. **Language Assistance Services** may include, but are not limited to: (1) Oral language assistance, including interpretation in non-English languages provided in-person or remotely by a qualified interpreter for an individual with LEP, and the use of qualified bilingual or multilingual staff to communicate directly with individuals with limited English proficiency; (2) written translation, performed by a qualified translator, of written content in paper or electronic form into languages other than English; and (3) taglines.
- F. **National Origin** includes, but is not limited to, an individual's, or his or her ancestor's, place of origin (such as country or world region) or an individual's manifestation of the physical, cultural, or linguistic characteristics of a national origin group.
- G. **Participant** means any person who has applied for and is receiving public assistance benefits or services under any Erie County Department of Social Services program or service for which USDHHS funding is received.
- H. **Primary Language** means the language with which an individual with LEP identifies as the language that he or she uses to communicate effectively, and is the language that the individual prefers to use to communicate with Erie County Department of Social Services.
- I. **Qualified Bilingual/Multilingual Staff** means an Erie County Department of Social Services staff member who is designated to provide oral language

assistance as part of the individual's current, assigned job responsibilities and has demonstrated to the covered entity that he or she: (1) is proficient in speaking and understanding both spoken English and at least one other spoken language, including any necessary specialized vocabulary, terminology and phraseology; and (2) is able to effectively, accurately, and impartially communicate directly with individuals with limited English proficiency in their primary languages.

- J. **Qualified Interpreter for an Individual with LEP** means an interpreter who, via a remote interpreting service or an on-site appearance: (1) adheres to generally accepted interpreter ethics principles, including client confidentiality; (2) has demonstrated proficiency in speaking and understanding both spoken English and at least one other spoken language; and (3) is able to interpret effectively, accurately, and impartially, both receptively and expressively, to and from such language(s) and English, using any necessary specialized vocabulary, terminology and phraseology.
- K. **Qualified Translator** means a translator who: (1) adheres to generally accepted translator ethics principles, including client confidentiality; (2) has demonstrated proficiency in both written English and at least one other language; (3) is able to translate effectively, accurately, and impartially to and from such language(s) and English using any necessary specialized vocabulary, terminology and phraseology.
- L. **Sub-recipients** means an entity that expends Federal assistance received as a pass-through from Erie County Department of Social Services to carry out a federally-funded program, in which the sub-recipient provides services to and has contact with applicants and participants in the same manner as Erie County Department of Social Services if Erie County Department of Social Services were to administer the program directly, but does not include an individual applicant or participant who is a beneficiary of the program.
- M. **Taglines** means short statements written in non-English languages that indicate the availability of language assistance services free of charge.
- N. **Vital Documents** shall include, but are not limited to: applications; consent forms; complaint forms; letters or notices pertaining to eligibility for benefits; letters or notices pertaining to the reduction, denial, or termination of services or benefits that require a response from the individual with LEP; written tests that evaluate competency for a particular license, job, or skill for which knowing English is not required; documents that must be provided by law; and notices regarding the availability of free language assistance services for individuals with LEP.

### **III. General Provisions**

- A. **Facilities Covered by Agreement.** The Agreement covers Erie County Department of Social Services and all programs and services it administers, or provides through sub-recipients or contractors, with the use of Federal financial assistance from the USDHHS. This includes, but is not limited to, programs and services such as cash assistance programs, Temporary Assistance for Needy

Families, food stamps, SNAP benefits, Medicaid, HEAP benefits, emergency assistance relief, child protective services, fraud prevention, adoption, children's day care, foster care, services for welfare recipients and adults, adult protective services, and home-based services.

- B. **Effective Date and Duration of Agreement.** This Agreement shall become effective on the date it is executed by OCR (Effective Date) and shall remain in effect for two (2) years or until OCR's written acceptance of the final progress report, whichever date is later. At such time, the Agreement will terminate, provided Erie County Department of Social Services is in substantial compliance with the Agreement as determined by OCR in its sole judgment upon its review of the reports required in Section IV.Z of this Agreement and other relevant information. Notwithstanding the aforementioned time limitation, Erie County Department of Social Services acknowledges that it will comply with Title VI for so long as it continues to receive Federal financial assistance.
- C. **Erie County Department of Social Services' Continuing Obligation.** Nothing in this Agreement is intended to relieve Erie County Department of Social Services of its obligation to comply with other applicable non-discrimination statutes and their implementing regulations.
- D. **Effect on Other Compliance Matters.** The terms of this Agreement do not apply to any other issues, investigations, reviews, or complaints of discrimination that are unrelated to the subject matter of this Agreement and that may be pending before OCR or any other Federal Agency. Any unrelated compliance matters arising from reviews or investigations will be addressed and resolved separately. OCR shall review complaints against Erie County Department of Social Services that are received on or after the Effective Date that concern the laws, regulations, issues and subject matter covered by this Agreement. Nothing in this Agreement shall be construed to limit or restrict OCR's statutory and regulatory authority to conduct complaint investigations and compliance reviews.
- E. **Prohibition Against Retaliation and Intimidation.** Erie County Department of Social Services shall not retaliate, intimidate, threaten, coerce, or discriminate against any person who has filed a complaint, assisted, or participated in any manner in the investigation of matters addressed in this Agreement.
- F. **OCR's Review of Erie County Department of Social Services' Compliance with Agreement.** OCR may, at any time, review Erie County Department of Social Services' compliance with this Agreement. As part of such review, OCR may require Erie County Department of Social Services to provide written reports, permit inspection of offices, interview staff members, and allow OCR to examine and copy documents. Erie County Department of Social Services agrees to retain records required by OCR to assess its compliance with the Agreement, as described in Section IV.Y, and to submit reports to OCR as specified in Section IV.Z.
- G. **Failure to Comply with the Terms of Agreement.** If at any time OCR determines that Erie County Department of Social Services has failed to comply with any provision of this Agreement, OCR shall notify Erie County

Department of Social Services in writing. The notice shall include a statement of the basis for OCR's determination and shall allow Erie County Department of Social Services thirty (30) calendar days to either: (a) explain in writing the reasons for its actions and describe the remedial actions that have been or shall be taken to achieve compliance with this Agreement; or (b) dispute the accuracy of OCR's findings. On notice to Erie County Department of Social Services, OCR may shorten the 30-calendar day period if it determines that a delay would result in irreparable injury to the complainant or to other affected parties. If Erie County Department of Social Services does not respond to the notice, or if, upon review of Erie County Department of Social Services' response, OCR determines that Erie County Department of Social Services has not complied with the terms of the Agreement, OCR reserves the right to reopen its investigation of Erie County Department of Social Services' compliance with Title VI. OCR may incorporate into its reopened investigation any relevant evidence of noncompliance with this Agreement, and any relevant evidence gathered by OCR prior to the signing of this Agreement.

- H. **Non-Waiver Provision.** Failure by OCR to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision shall not be construed as a waiver of OCR's right to enforce other deadlines of, or any other provision of, this Agreement.
- I. **Entire Agreement.** This Agreement constitutes the entire understanding between Erie County Department of Social Services and OCR in resolution of Transaction Number 13-161750. Any statement, promise, or agreement not contained herein shall not be enforceable through this Agreement.
- J. **Modification of Agreement.** This Agreement may be modified by mutual agreement of the parties in writing.
- K. **Effect of Erie County Department of Social Services Program Changes.** Erie County Department of Social Services reserves the right to change or modify its programs, so long as Erie County Department of Social Services ensures compliance with Title VI, other applicable state and federal laws, and the provisions of this Agreement. Significant program changes that may affect compliance with this Agreement or any applicable statutes and regulations within OCR's jurisdiction must be reported to OCR promptly.
- L. **Publication or Release of Agreement.** OCR places no restrictions on the publication of the terms of this Agreement. In addition, OCR may be required to release the Agreement and all related materials to any person upon request consistent with the requirements of the Freedom of Information Act, 5 U.S.C. 552, and its implementing regulations, 45 C.F.R. Part 5.
- M. **Authority of Signer.** The individual who signs this document on behalf of Erie County Department of Social Services represents that he or she is authorized to bind Erie County Department of Social Services to this Agreement.
- N. **Third Party Rights.** This Agreement can only be enforced by the parties specified in this Agreement, their legal representatives and assigns. This

Agreement shall be unenforceable by third parties and shall not be construed to create third party beneficiary rights.

- O. **Severability.** In the event that a court of competent jurisdiction determines that any provision of this Agreement is unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain valid and enforceable; provided, however, that if the severance of any such provision materially alters the rights or obligations of the Parties, they shall, through reasonable, good faith negotiations, agree upon such other amendments hereto as may be necessary to restore the Parties as closely as possible to the relative rights and obligations initially intended by them hereunder.
- P. **Technical Assistance.** OCR agrees to provide appropriate technical assistance to Erie County Department of Social Services regarding compliance with this Agreement, as requested and as reasonably necessary.

#### IV. Specific Provisions

- A. **Recognition.** Erie County Department of Social Services recognizes that individuals with LEP need language assistance services to access and fully participate in programs and activities operated by Erie County Department of Social Services. Pursuant to Erie County Department of Social Services policy, Erie County Department of Social Services is committed to providing competent language assistance at no cost and in a timely manner to individuals with LEP to ensure meaningful access to and an equal opportunity to participate fully in the services, activities, programs or other benefits administered by Erie County Department of Social Services. This includes ensuring effective communication between Erie County Department of Social Services staff members, contractors, and/or sub-recipients and individuals with LEP.
- B. **Develop and Implement Policy.** Within sixty (60) calendar days of the Effective Date of this Agreement, Erie County Department of Social Services shall develop written policies and procedures to provide language assistance to individuals with LEP pursuant to Section IV.A of this Agreement, Title VI, and New York State Executive Order No. 26 – Language Access Policy. OCR shall review the policy and procedures within thirty (30) calendar days of receipt. The policy and procedures shall not be implemented by Erie County Department of Social Services without the approval of OCR. Within fifteen (15) calendar days of OCR approval, Erie County Department of Social Services shall disseminate the policy and procedures to Erie County Department of Social Services staff members, contractors, and sub-recipients and publish them in an appropriate Erie County Department of Social Services-wide communication piece.
- C. **Grievance Procedures.** Within thirty (30) calendar days of the Effective Date of this Agreement, Erie County Department of Social Services will develop and implement grievance procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of grievances

alleging any action that would be prohibited by Title VI, including complaints and concerns from individuals with LEP who need language assistance services.

- D. **Nondiscrimination by Association.** Erie County Department of Social Services shall not exclude from participation in, deny the benefits of, or otherwise discriminate against an individual or entity in Erie County Department of Social Services' programs or activities on the basis of race, color, or national origin of an individual with whom the individual or entity is known or believed to have a relationship or Association.
- E. **Language Access Plan.** Erie County Department of Social Services shall develop and implement an effective written language access plan that is appropriate to its circumstances to meet its obligations under Title VI and this Agreement.
- F. **Assessment for Determining Linguistic Needs**
  - 1. **Determining the Language Needs of the Affected Population.** Within ninety (90) calendar days of the Effective Date of this Agreement, and annually thereafter, Erie County Department of Social Services shall assess the language needs of individuals with LEP that are eligible for services and are likely to be encountered in Erie County Department of Social Services programs. Such assessment shall identify the following:
    - a. The non-English languages in which individuals with LEP communicate who are eligible to be served or likely to be encountered in Erie County Department of Social Services' programs.
    - b. An estimate of the number of individuals with LEP eligible to be served or likely to be encountered in Erie County Department of Social Services' programs and their languages by reviewing various sources, including but not limited to:
      - i. Census data;
      - ii. Utilization data from the files of individuals with LEP;
      - iii. School system data;
      - iv. Data from state and local governments;
      - v. Data from community agencies and organizations; and
      - vi. Information from refugee/immigrant serving agencies.
    - c. The points of contact within Erie County Department of Social Services' programs and Erie County Department of Social Services' contracted programs where language assistance is likely to be needed.
    - d. The locations and availability of language assistance services resources and arrangements that must be made at each Erie County Department of Social Services office to access these resources in a timely manner. These resources shall include:

- i. Available oral language assistance resources, such as Erie County Department of Social Services' qualified bilingual or multilingual staff to communicate directly with individuals with LEP;
    - ii. Interpretation provided by a qualified interpreter for an individual with LEP (including those on Erie County Department of Social Services' staff, obtained via contract, provided through video remote interpreting services, provided through telephonic oral interpretation services, or provided by community volunteers); and
    - iii. Available resources to translate written documents into languages other than English, performed by a qualified translator, of written content in paper or electronic form.
  - e. Existing vital documents and a process for determining which later-created documents are vital documents.
2. **Determining the Language Needs of Each LEP Individual.** Within thirty (30) calendar days of the Effective Date of this Agreement, Erie County Department of Social Services shall develop and implement a system for determining the primary language of each individual with LEP at the first point of contact.
- a. **In-person Communication.** Upon a staff member's initial encounter with an individual with LEP for whom the staff member cannot personally provide language assistance, the staff member will determine the individual's primary language utilizing one of the following:
    - i. Multi-language identification cards or "I speak" cards;
    - ii. Poster-size language list; or
    - iii. If the individual with LEP does not read or recognize any of the languages included in one of the methods described above, Erie County Department of Social Services shall use a telephone interpreting service to identify the individual's primary language.

Upon identification of the individual with LEP's primary language, the Erie County Department of Social Services staff member will refer the individual to the pre-printed statement in the individual's primary language that reads, "Please wait while I obtain an interpreter."
  - b. **Telephone Communication.** When a staff person places or receives a telephone call and cannot determine the language spoken by the person on the line, a telephone interpreter services provider will be contacted to make an assessment of the language spoken by the other party and to assist the other party as necessary.
  - c. **Documentation.** The primary language of each individual with LEP shall be documented in a conspicuous location in the individual's record to alert staff that language assistance services must be provided.



- d. **Coordination between Erie County Department of Social Services Departments.** A system or process shall be developed by which information concerning the language assistance needs of applicants and participants are communicated between Erie County Department of Social Services departments and program areas.
- G. **Timely, Competent Language Assistance.** Erie County Department of Social Services shall ensure that each individual with LEP receives competent, accurate, and timely oral and written language assistance services necessary to ensure meaningful access to Erie County Department of Social Services programs, pursuant to Section IV.A of this Agreement and Title VI. Erie County Department of Social Services may offer to schedule appointments for individuals with LEP at specified times in order to minimize waiting times and to ensure the availability of appropriate qualified language interpreters, provided that the use of an appointment facilitates the provision of language assistance and does not impede or delay the individual's access to benefits and/or services provided by Erie County Department of Social Services. Language assistance services provided must protect the privacy and independence of the individual with LEP. Nothing in this agreement shall be construed to require an individual with LEP to accept language assistance services.
- H. **Language Assistance Resources.** Based on the language needs assessment conducted pursuant to Section IV.F of this Agreement, Erie County Department of Social Services shall annually determine what resources and arrangements are needed to provide sufficient language assistance services in a timely manner for oral and written communication. Erie County Department of Social Services shall hire appropriate staff and utilize outside agencies as required to provide necessary language assistance services.
- I. **Language Assistance Standards.**
  - 1. Erie County Department of Social Services shall ensure that:
    - a. Staff interpreters, interpreters from community organizations, and contractors providing language assistance services, including interpretation, are capable of competently performing their duties and meet the qualifications of a qualified interpreter for an individual with LEP as defined in Section II.J of this Agreement;
    - b. Staff translators and contractors providing written translation services are capable of competently performing their duties and meet the qualifications of a qualified translator, as defined in Section II.K;
    - c. Bilingual or multilingual staff who directly communicate with individuals with limited English proficiency in non-English languages meet the qualifications of qualified bilingual/multilingual staff, as defined in Section II.I of this Agreement.
  - 2. Competency of language assistance service providers may be established by a variety of means including self-attestation of the interpreter. Whether self-attestation or another means is used to establish competency, Erie County

Department of Social Services shall take reasonable steps to ensure that the individuals providing the interpretation and translation are capable of facilitating effective communication between individuals with LEP and Erie County Department of Social Services in accordance with Section IV.A of this Agreement.

J. **Request for a Qualified Interpreter for an Individual with LEP.** If an individual with LEP requests a qualified interpreter, one shall be provided. Under no circumstances shall a staff member deny a request for a qualified interpreter based solely on whether an individual with LEP can answer short questions by nodding or through the use of questions to which the answers are simply “yes” or “no.”

K. **Oral Language Assistance Services**

1. Within thirty (30) calendar days of the Effective Date of this Agreement, Erie County Department of Social Services shall provide competent, effective, and timely oral language assistance, pursuant to Section IV.G of this Agreement, free of charge for individuals with LEP through qualified bilingual/multilingual staff or qualified interpreters (in-person or remotely via telephone or video) to ensure effective communication with Erie County Department of Social Services and all other Erie County Department of Social Services contracted programs and services. Erie County Department of Social Services must offer an individual with LEP a qualified interpreter free of charge when oral interpretation is a reasonable step to provide meaningful access for that individual with LEP. Erie County Department of Social Services may utilize any of the following language assistance resources, to the extent such resources result in effective communication:
  - a. Erie County Department of Social Services’ qualified bilingual or multilingual staff to communicate directly with individuals with LEP in their primary languages;
  - b. Interpretation provided by a qualified interpreter for an individual with LEP:
    - i. On Erie County Department of Social Services’ staff or obtained via contract,
    - ii. Obtained through community organizations,
    - iii. Through telephone interpreter services procured under contract by Erie County Department of Social Services,
    - iv. Through video remote interpreting services that meet the standards in Section IV.O of this Agreement, and
    - v. Through a volunteer interpreter program; and
  - c. Erie County Department of Social Services language phone banks staffed with qualified bilingual/multilingual staff or qualified interpreters for individuals with LEP;

2. Erie County Department of Social Services shall ensure that, pursuant to Section IV.I of this Agreement, regardless of the type of language assistance services provided, the language assistance provider or Erie County Department of Social Services staff is competent, consistent with the relevant definitions in Part II of this Agreement: qualified bilingual/multilingual staff (defined in Section II.I), qualified interpreter for an individual with LEP (defined in Section II.J), and qualified translator (defined in Section II.K).
3. Within thirty (30) calendar days of the Effective Date of this Agreement, Erie County Department of Social Services will develop, and ensure that each Erie County Department of Social Services office maintains a list identifying all available language interpreter services, in-house staff interpreters, telephone language lines, and other services and resources. For each Erie County Department of Social Services office, the list shall identify all of the following:
  - a. The name and telephone number of every language assistance services resource available to the office;
  - b. The location of the office to which the qualified interpreter for an individual with LEP is assigned, if the qualified interpreter is a staff member of Erie County Department of Social Services;
  - c. The languages for which each qualified interpreter is qualified, consistent with the definition of qualified interpreter for an individual with LEP in Section II.J of this Agreement;
  - d. The hours and days the qualified interpreter for an individual with LEP or resource is available to provide interpretation or other assistance; and
  - e. The procedure by which each qualified interpreter for an individual with LEP or resource shall be accessed by staff.

**L. Translation of Written Content.**

1. Erie County Department of Social Services shall use a qualified translator when translating written content in paper or electronic form.
2. Within six (6) months after the Effective Date of this Agreement, Erie County Department of Social Services shall identify and review existing vital documents and shall establish a process for determining which later-created documents are “vital” to the meaningful access of the LEP populations eligible to be served or likely to be encountered.
3. Within one (1) year after the Effective Date of this Agreement, Erie County Department of Social Services shall translate existing vital documents into any language spoken by five (5%) percent of the total population eligible to be served or likely to be encountered by Erie County Department of Social Services’ programs, or one thousand (1000) persons in that population, whichever is less; later-created vital documents shall be translated into the same languages within a reasonable time of being created, but not to exceed six (6) months of being created.

4. If there are fewer than fifty (50) persons in a language group that reaches the five (5%) percent trigger, Erie County Department of Social Services may, in lieu of translating the vital documents, elect to provide written notice in the primary language of the LEP language group of the right to receive competent oral translation of the vital documents, free of cost to the individual with LEP.
  5. Erie County Department of Social Services shall develop a process for ensuring that correspondence and other documents submitted by an individual with LEP in the individual's primary language are translated without undue delay.
- M. **Telephone Communication.** Erie County Department of Social Services shall provide uniform procedures for timely and effective telephone communication between staff members and individuals with LEP.
- N. **Home-Based Communication.** Erie County Department of Social Services shall provide uniform procedures for timely and effective communication between staff members and individuals with LEP during home visits and inspections.
- O. **Standards for Video Remote Interpreting Services.** A Covered Entity that provides a qualified interpreter for an individual with LEP through video remote interpreting services in the Covered Entity's programs and activities shall provide:
1. Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce video lags, choppy, blurry, or grainy images, or irregular pauses in communication;
  2. A sharply delineated image that is large enough to display the interpreter's face and that protects the hearing individual's face, regardless of the individual's body position.
  3. A clear audible transmission of voices; and
  4. Adequate training to users of the technology and other involved individuals that they may quickly and efficiently set up and operate the video remote interpreting.
- P. **Use of Family or Friends as Interpreters or to Facilitate Communication.** The parties recognize that individuals with LEP may seek to use family members or friends as interpreters or to facilitate communication. Regardless, Erie County Department of Social Services must offer the individual with LEP a qualified interpreter free of charge when oral interpretation is a reasonable step to provide meaningful access for that individual with LEP.

If an individual with LEP elects to use a family member or friend to provide interpretation, (after the offer of free language assistance in his or her primary language), Erie County Department of Social Services shall take reasonable steps to determine whether the situation satisfies Section IV.P.2-3 of this Agreement. In determining whether reliance on the adult for such assistance is appropriate under the circumstances, the Erie County Department of Social Services shall

consider whether the family member or friend is competent to provide this service. Further, Erie County Department of Social Services shall take reasonable steps to determine whether conflict of interest, confidentiality or other concerns make use of the friend or family member inappropriate. These concerns are heightened and require the exercise of significant caution if the individual with LEP asks to have a minor provide interpretation. If use of the family member or friend does not meet Section IV.P.2-3 of this Agreement, Erie County Department of Social Services shall utilize a qualified interpreter for the individual with LEP in place of or, in addition to, the person selected by the individual with LEP.

In addition, Erie County Department of Social Services shall not:

1. Require an individual with LEP to provide his or her own interpreter;
2. Rely on an adult accompanying an individual with LEP to interpret or facilitate communication, except:
  - a. In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter or qualified bilingual/multilingual staff immediately available; or
  - b. Where the individual with LEP specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances;
3. Rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter or qualified bilingual/multilingual staff immediately available; or
4. Rely on staff other than qualified bilingual/multilingual staff to communicate directly with individuals with limited English proficiency.

**Q. Documentation.** For each individual with LEP who declines the offer for Erie County Department of Social Services to provide a qualified interpreter for the individual with LEP free of charge, Erie County Department of Social Services staff shall document in the individual's LEP record:

1. That an offer was made for Erie County Department of Social Services to provide an interpreter free of charge;
2. That the offer was declined; and
3. The name of the family member or friend who provided language assistance at the LEP individual's request, if any.

Erie County Department of Social Services shall inform an individual with LEP who has declined the offer for Erie County Department of Social Services to provide an interpreter free of charge that he or she may reconsider and request an interpreter at any time.

**R. Title VI Coordinator.** Within Thirty (30) calendar days of the Effective Date of this Agreement, Erie County Department of Social Services shall designate a

senior staff person to serve as its Title VI Coordinator. Erie County Department of Social Services' Title VI Coordinator shall have overall responsibility for coordinating Erie County Department of Social Services' compliance with Title VI including Erie County Department of Social Services' comprehensive language assistance services and directing compliance with this Agreement, including but not limited to:

1. Serving as a liaison between Erie County Department of Social Services and USDHHS, and other stakeholders serving individuals with LEP who seek to access and fully participate in programs and activities operated by Erie County Department of Social Services; and.
2. Reviewing and responding to questions and complaints regarding the Erie County Department of Social Services' compliance with Title VI; and
3. Performing other duties identified in Erie County Department of Social Services' policies and procedures that will be implemented pursuant to Section IV.B, C and E of this Agreement.

**S. Language Assistance Personnel.** Within sixty (60) calendar days of the Effective Date of this Agreement, Erie County Department of Social Services shall identify appropriate personnel at each level of the organization (i.e. division, branches, unit, etc.) who will coordinate language assistance services for their respective levels. The identified personnel shall have responsibility for directing compliance with Title VI and implementation of this Agreement at their respective levels, including but not limited to:

1. Distributing to the appropriate Erie County Department of Social Services staff members the policies and procedures referenced in Section IV.B, C and E of this Agreement and the list of available language assistance services referenced in Section IV.K. 3. of this Agreement;
2. Consulting with the Erie County Department of Social Services Title VI Coordinator on the development and implementation of staff training pursuant to Section IV.V of this Agreement;
3. Collecting Erie County Department of Social Services internal data pursuant to Section IV.Y of this Agreement; and
4. Performing other duties as identified in Erie County Department of Social Services policies and procedures implemented pursuant to Section IV.B, C, and E of this Agreement.

**T. Nondiscrimination Notice and Taglines in at least 10 languages.** Within sixty (60) calendar days of the Effective Date of this Agreement, Erie County Department of Social Services shall post a nondiscrimination notice and shall post taglines that inform Erie County Department of Social Services' clients about individuals' rights, Erie County Department of Social Services' obligations, and how to obtain language assistance services provided by Erie County Department of Social Services. A sample tagline in English and in 64 non-English languages is available at: <http://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/index.html>.

Taglines must be provided in at least 10 languages spoken by individuals with LEP in New York State. As applied to Erie County Department of Social Services' programs and activities, taglines must be provided in at least the following languages: Spanish, Arabic, Burmese, Karen, Nepali, Swahili, Somali, Karenni, French and Tigrinya. Erie County Department of Social Services may provide taglines in frequently-encountered languages in Erie County Department of Social Services' service area in which individuals with LEP communicate that are not captured in the list languages triggered by the State-based standard.

1. **Posting of Notice and Taglines.** The nondiscrimination notice and taglines must be in a conspicuously-visible font size and posted in:
  - a. Significant publications and communications that are not small-size, such as application forms;
  - b. Conspicuous physical locations where the entity interacts with the public, such as waiting rooms, reception areas, and other initial points of entry of each Erie County Department of Social Services office;
  - c. A conspicuous location on the Erie County Department of Social Services' website accessible from the home page of Erie County Department of Social Services' website. Erie County Department of Social Services may satisfy the requirement to post the nondiscrimination notice and all 10 taglines accessible from its home page by posting a nondiscrimination notice web link in English and 10 "in language" web links to each of its taglines on its home page. Each link must be in a conspicuous location on its home page and must direct an individual to the content of the nondiscrimination notice and each tagline elsewhere on the Erie County Department of Social Services' website.

Erie County Department of Social Services may also post the nondiscrimination notice and taglines in additional publications and communications.

2. **Content of Nondiscrimination Notice.** The nondiscrimination notice must indicate:
  - a. Erie County Department of Social Services does not discriminate on the basis of race, color, or national origin in its programs and activities;
  - b. Erie County Department of Social Services provides appropriate auxiliary aids and services, including qualified interpreters for individuals with disabilities and information in alternate formats, free of charge and in a timely manner, when such aids and services are necessary to ensure an equal opportunity to participate to individuals with disabilities;
  - c. Erie County Department of Social Services provides language assistance services, including translated documents and oral interpretation, free of charge and in a timely manner, when such services are necessary to provide meaningful access to individuals with limited English proficiency;

- d. How to obtain the aids and services described in the nondiscrimination notice in Section IV.T.2.b-c of the Agreement;
- e. Identification of, and contact information for, the Title VI Coordinator designated pursuant to Section IV.R of this Agreement;
- f. The availability of the grievance procedures and how to file a grievance; and
- g. How to file a discrimination complaint with USDHHS OCR.

Erie County Department of Social Services may combine the content of the notice required in Section IV.T.2 of this Agreement with the content of other notices if the combined notice clearly informs individuals of their civil rights under Title VI.

- U. **Nondiscrimination Statement and Three Taglines.** In small-size significant publications and significant communications, such as postcards, pamphlets, and trifold brochures, Erie County Department of Social Services shall post, within sixty (60) calendar days of the Effective Date of this Agreement:
  - 1. Taglines in at least the top three languages spoken by individuals with LEP in New York State, which as applied to Erie County Department of Social Services' programs and activities, are the following languages Spanish, Burmese and Arabic. Erie County Department of Social Services may provide taglines in frequently-encountered languages in Erie County Department of Social Services' service area in which individuals with LEP communicate that are not captured in the list languages triggered by the State-based standard.
  - 2. A statement that Erie County Department of Social Services does not discriminate on the basis of race, color, or national origin in its programs and activities.
- V. **Training.** Within six (6) months of the Effective Date of this Agreement, Erie County Department of Social Services will develop and implement mandatory staff training for all supervisors as well as for staff members who have regular contact with applicants and participants on the Erie County Department of Social Services policies and procedures for communicating with and serving individuals with LEP. The training will specifically address Erie County Department of Social Services Language Access Plan. Thereafter, training on these policies and procedures shall be conducted annually and at orientation for new employees, or at least within thirty (30) calendar days of employment. Training may be conducted online and be self-paced with acknowledgement of understanding by the trainees.
  - 1. The training program shall be of sufficient content and duration to cover the following:
    - a. The importance of effective communication with individuals with LEP;
    - b. The policy and procedures outlined in this Agreement and Erie County Department of Social Services language access plan;



- c. The method used to assess an individual's need for a qualified interpreter for an individual with LEP or other language assistance services;
  - d. The use of qualified interpreters for individuals with LEP when staff members receive incoming calls from or make outgoing calls to individuals with LEP;
  - e. The impact of ethnic and cultural differences on effective communication and the need for sensitivity to diversity issues;
  - f. The effective method of using an in-person and telephone interpreter; and
  - g. Applicable record-keeping procedures.
2. Erie County Department of Social Services shall maintain a training registry that records the names and dates of the staff members who have been trained.

**W. Erie County Department of Social Services Sub-Recipients and Contractors.** Erie County Department of Social Services shall ensure that all applicable sub-recipients and contractors are informed of the LEP requirements of Title VI and this Agreement. Erie County Department of Social Services shall further ensure that the applicable sub-recipients and contractors complete an individualized assessment and implement a written policy corresponding to the requirements herein, including, but not limited to, the provision of language assistance services, training for staff, and complaint procedures. Erie County Department of Social Services shall provide information to and oversee the applicable sub-recipients and contractors as necessary to monitor compliance with these requirements.

**X. Monitoring.** To ensure effective language assistance and access to services, Erie County Department of Social Services shall develop and implement a program to monitor the provision of language assistance services to individuals with LEP and compliance with this Agreement. As part of the monitoring program, Erie County Department of Social Services may:

- 1. Review the case records of individuals with LEP to assess whether primary languages are properly recorded in all case records and whether such persons are provided adequate language assistance services;
- 2. Review complaints filed by individuals with LEP to determine adequacy of language assistance services;
- 3. Assess Erie County Department of Social Services staff members', sub-recipients', and contractors' knowledge about Erie County Department of Social Services' language assistance policies and procedures;
- 4. Review the accuracy of the list(s) containing the availability of qualified bilingual or multilingual staff, qualified interpreters for individuals with LEP, and other resources;
- 5. Request feedback from individuals with LEP and advocates;

6. Review the development and distribution of translated Erie County Department of Social Services documents and posting of signs in public assistance offices;
7. Assist with the recruitment and assignment of bilingual staff, if applicable;
8. Analyze the impact of all procedural and policy changes affecting individuals with LEP;
9. Reassess the linguistic needs of the affected population by conducting the Assessment for Determining Linguistic Needs described in Section IV.F; and
10. Develop and conduct a self-assessment program to determine whether language assistance services are provided to individuals with LEP when they visit Erie County Department of Social Services offices or contact an office by telephone. The self-assessment program shall include:
  - a. Unannounced site visits to a sampling of randomly selected offices to be conducted every six (6) months, beginning within six (6) months of the Effective Date of this Agreement; and
  - b. Requests for public assistance information in languages other than English by testers.

Y. **Internal Data Collection.** Erie County Department of Social Services shall maintain a centralized record-keeping system that facilitates coordination between Erie County Department of Social Services programs, divisions, branches, and units and assures the ready availability of data regarding the provision of language assistance services to individuals with LEP, in which:

1. Erie County Department of Social Services shall record the primary language spoken by each individual with LEP in its record keeping system.
2. Erie County Department of Social Services shall record in each individual with LEP's case file the primary language of the individual, the type of language assistance provided during each encounter, if any, and if a family member or friend of the individual with LEP provided interpretation, the name of the family member or friend, pursuant to Section IV.P of this Agreement.
3. Erie County Department of Social Services shall identify, in consultation with OCR, any other data needed to ascertain compliance with this Agreement, which may include but is not limited to:
  - a. The number of individuals with LEP served, by primary language; and
  - b. The number and type of language assistance services provided.

Z. **Reporting Requirements to OCR**

1. Within sixty (60) calendar days of the Effective Date of this Agreement, Erie County Department of Social Services shall submit written policies and procedures pursuant to Section IV.B-C of this Agreement for OCR's review and approval.

2. Within ninety (90) calendar days of the Effective Date of this Agreement, Erie County Department of Social Services shall submit to OCR, a preliminary report on the data collected pursuant to Section IV.Y of this Agreement.
3. Beginning within six (6) months of the Effective Date of this Agreement, Erie County Department of Social Services shall provide to OCR semi-annual progress reports, every six (6) months, concerning its compliance with the terms of this Agreement,
4. Erie County Department of Social Services, in consultation with OCR, shall determine the content and the form for each report submitted pursuant to this Section.

**V. Signatures**

/s/

12/18/2016

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Al Dirschberger  
 Commissioner  
 Erie County Department of Social Services

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Date

/s/

12/19/2016

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Linda C. Colón  
 Regional Manager, Eastern & Caribbean Region  
 U.S. Department of Health & Human Services  
 Office for Civil Rights

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Date