

## COUNTY OF ERIE

LOCAL LAW INTRO. NO. 6-1 -2024

LOCAL LAW NO. \_\_\_\_\_-2024

**THE ERIE COUNTY LANGUAGE ACCESS ACT**

A Local Law mandating the development of County Agency-specific language access plans, practices and training in the County of Erie.

Be it enacted by the Legislature of the County of Erie as follows:

**Section 1. Legislative Intent and Findings**

The County recognizes that a large percentage of its inhabitants speak languages other than English and that the well-being and safety of the County as a whole is put in jeopardy if the people of the County are unable to access County services or effectively communicate with County agencies.

This Legislature also finds and determines that language can be a substantial barrier for residents seeking to access government information, programs and services. This Legislature finds that Title VI of the Civil Rights Act of 1964 prohibits agencies receiving federal funds from discriminating against persons on the basis of race, color or national origin. This Legislature determines that Presidential Executive Order 13166 (August 11, 2000) requires federally funded agencies to act to ensure that individuals with limited English proficiency have access to programs and services.

This Legislature concludes that it is in the best interest of all County residents to ensure and improve language access to County programs and services.

**Section 2. Definitions**

As used in this law, the following terms shall have the meanings indicated:

- A. *County Agency*: Any agency, department, division or office of Erie County government which provides programs and/or services to the public or programs and/or services made available to individuals in the custody of the Erie County Sheriff.
- B. *Designated Countywide Languages*: The top six limited English proficiency languages spoken by the population of Erie County as determined by the Language Access Advisory Board for the purpose of translation for a Locally Covered Entity.

- C. *Direct Public Services*: Services administered by a County Agency directly to program beneficiaries and/or participants, including any services administered by an agency directly to individuals in the custody of the Erie County Sheriff.
- D. *Head of a County Agency*: The highest-ranking public officer in the County Agency with administrative authority over the provision of programs and/or services, or their designee.
- E. *Interpretation*: An oral (spoken) or signed communication of a message from one language to another, in real time by a qualified human interpreter competent in both languages, keeping in mind cultural context, without adding, omitting, or changing the message's original meaning.
- F. *Language Access Services*: The service of interpretation, translation, or other communication method to a person with Limited English Proficiency.
- G. *Limited English Proficiency*: Persons for whom English is not their primary language and have difficulty communicating effectively in English.
- H. *Locally Covered Entity*: A County Agency, as defined in this section, in which the Head of the County Agency has declared that the agency is not covered by State or Federal language access requirements.
- I. *State or Federally Covered Entity*: A County Agency, as defined in this section, that is subject to State or Federal language access requirements because it is a recipient of State or Federal funds either directly or as a passthrough; or, it is subject to State or Federal laws that requires the provision of language access.
- J. *Translation*: The written rendition of a text in one language to a written text in another language, completed by a human translator competent in both languages.
- K. *Unforeseeable Life-Threatening Emergency*: An emergency that threatens the life of a client, which is not commonly included in the scope of the County Agency's normal provision of Direct Public Services.
- L. *Vital Documents*: Those documents most commonly distributed to the public and individuals that contain or elicit important and necessary information regarding the provision of Direct Public Services, as determined by the Head of the County Agency.

### **Section 3. Applicability**

- A. For the purpose of this Local Law the Head of each County Agency shall declare if their agency is either a State or Federally Covered Entity or a Locally Covered Entity.

- B. County Agencies that are declared to be a State or Federally Covered Entity shall not be subject to Section 6 of this act.
- C. County Agencies that are declared to be a Locally Covered Entity shall be subject to the requirements all sections of this Local Law.
- D. All requirements applicable to Locally Covered Entity under Section 6 of this act shall also be applicable to any contractor hired to perform Direct Public Services in the place of the County Agency.

#### **Section 4. Compliance Documentation and Reporting**

- A. Each County Agency shall be responsible for the creation and maintenance of compliance documentation as set forth in this Section, including:
  - 1. A written declaration by the Head of each County Agency shall be made to the Language Access Advisory Board by the last day in November for the next fiscal year. This written declaration shall include:
    - a. All direct public services covered by the declaration.
    - b. The applicability declaration category selected by the Head of the County Agency from Section 2(A) above.
    - c. A brief explanation of the laws and regulations that are applicable to the County Agency.
    - d. Specific Dates of the biennial review cycle to be used by the County Agency.
  - 2. A written Annual Report on Language Access shall be made to the Language Access Advisory Board by the last day in January each year providing data on the year prior. This Annual Report shall include:
    - a. Data on the types of services provided and the language in which they were provided, including geographic and demographic data if available.
    - b. Estimates of the number of individuals served for each language.
  - 3. A written Language Access Plan shall be submitted to the Language Access Advisory Board by the last day in November each year. This written plan shall include at minimum:

- a. A needs assessment considering the following factors:
  - i. the number or proportion of LEP persons in the eligible service population;
  - ii. the frequency with which LEP individuals come into contact with the agency, if such data exists. If no relevant data has been collected, such agency must exclude this factor from consideration;
  - iii. the importance of the benefit, service, information, or encounter to the LEP person (including the consequences of lack of language services or inadequate interpretation or translation); and
  - iv. the resources available to the agency and the costs of providing various types of language services.
  - v. The languages commonly encountered and served by the County Agency.
- b. The designation of a language access coordinator by name, title, and contact information;
- c. A list of language access services and resources, communications aids and accommodations for the disabled provided by the County Agency and a brief description of how they are provided;
- d. A description of the uniform training plan for agency employees, including annual training on the language access policies and the provision of language assistance services as well as providing a procedure that allows employees to report issues and problems implementing the language access plan;
- e. A description of the process for tracking and reporting agency language access data including the number and type of requests for language access services, what languages service requests are for, how each request was fulfilled, the number of complaints received by the agency regarding language access, and how complaints were resolved.

B. Each County Agency shall conduct reviews of their Language Access Plans on a biennial basis as set by the Head of the County Agency.

C. Each County Agency shall publish in a prominent place on the County's website:

1. The Language Access Plan of the county agency.
  2. The name, title and contact information of the language access coordinator.
  3. Translated notices in multiple languages informing the public that language access services are available free of charge, where programmatically applicable.
- D. Any additional documentation required by future resolutions of the Erie County Legislature, unless barred by laws restricting the disclosure of that information.

### **Section 5. Language Access Requirements for a State or Federally Covered Entity**

- A. Each County Agency that declares itself a State or Federally Covered Entity under Section 3 above shall follow the applicable requirements and standards set forth in State and Federal Law
- B. A County Agency that declares itself a State or Federally Covered Entity under Section 3 above and complies with the requirements of Section 4 by submitting a written declaration, language access plan, and annual report, shall not be subject to Section 6 of this act.
1. In its written declaration under Section 4(A)(1)(b), the County Agency should reference the State or Federal Law that covers the County Agency's language access requirements.
- C. 365 days after this law is filed with the Secretary of State, a State or Federally Covered Entity under this act shall be required to meet a minimum service standard of providing competent and timely interpretation services to individuals in their primary or preferred language. Competent interpretation shall mean a spoken or signed, real-time communication in which the qualified human interpreter is fluent in both the source and target language and is trained as an interpreter. The interpreter shall know relevant terminology and provide accurate interpretations by choosing equivalent expressions that convey the best matching and meaning to the source language and capture, to the greatest extent possible, all nuances intended in the source material. Priority shall be given to providing in-person interpreters where programmatically possible.

### **Section 6. Language Access Requirements for a Locally Covered Entity**

- A. Each County Agency that declares itself a Locally Covered Entity under Section 3 above shall provide language access services for all direct public services it administers.
- B. Language Access Services shall include, but not be limited to:

1. Providing competent and timely interpretation services to individuals in their primary or preferred language. Competent interpretation shall mean a spoken or signed, real-time communication in which the qualified human interpreter is fluent in both the source and target language and is trained as an interpreter. The interpreter shall know relevant terminology and provide accurate interpretations by choosing equivalent expressions that convey the best matching and meaning to the source language and capture, to the greatest extent possible, all nuances intended in the source material. This interpretation services requirement shall commence 365 days after this law is filed with the Secretary of State.
2. Identifying and translating vital documents provided to the public, including but not limited to, forms, program signage and instructions provided to or completed by program participants and beneficiaries in each designated countywide language:
  - a. Existing vital documents must be translated within 365 days of the publication date of the Designated Countywide Languages to each County Agency. A County Agency will translate existing vital documents into any newly designated languages within 365 days of the publication date of the Designated Countywide Languages to each County Agency.
  - b. New vital documents, produced after the publication date of the Designated Countywide Languages to each County Agency, must be translated as soon as is practicable but no later than 120 days after the English version is released to the public
  - c. Emergency communications must be translated immediately, or no more than 5 days following the release of the English version.
3. Translation of pre-recorded informational messages on agency phone lines that provide vital public information in English, including emergency alerts and public service announcements.
4. Posting of multilingual signage in conspicuous locations about the availability of free interpretation services. Where practicable, the same information should be communicated via pre-recorded announcements in each designated countywide language on the public address system in public waiting areas.
5. Accommodations for communication access for disabled members of the public shall be available upon request including, but not limited to:
  - a. American Sign Language Interpretation via an on-site interpreter or Video Remote Interpreter (VRI).

- b. Communication Access Realtime Translation for individuals who are deaf, hard of hearing or have hearing loss.
  - c. All other communications access accommodations as required by the application of the Americans with Disabilities Act.
- C. Language Access Services provided by the County Agency must meet or exceed the following quality standards:
  - 1. Translation or interpretation via online applications, artificial intelligence, or machine interpretation software shall only be used after a County Agency has attempted to secure qualified translators or interpreters via booking on-site personnel, human reviewed translation processes, or telephone or video call services.
  - 2. Family members, other clients, and any other member of the public who is not a qualified interpreter, shall not be used for interpretation with respect to the provision of services or benefits, except in the case of an unforeseeable life-threatening emergency.
  - 3. Minors shall not be used for interpretation with respect to the provision of services or benefits, except in the case of an unforeseeable life-threatening emergency.
  - 4. All language access services must be provided by qualified human interpreters and translators competent in both languages, keeping in mind cultural context, without adding, omitting, or changing the message's original meaning.
  - 5. All language access services must be provided at no cost to the person seeking services from the County Agency.

### **Section 7. Amending Article 17 of the Erie County Charter**

Erie County Local Law No. 1-1959, constituting the Erie County Charter, as amended, is hereby amended at Article 17 to add a new Section 1708 to read as follows:

Section 1708. Language Access Advisory Board. There shall be a Language Access Advisory Board to advise on matters relating to LEP individuals and language access. The Board shall consist of eleven (11) members including:

- 1. County Executive, or their designee;

2. County Clerk, or their designee;
3. County Comptroller, or their designee;
4. District Attorney, or their designee;
5. Sheriff, or their designee;
6. Six community members appointed by the County Executive. All six community member appointments will be subject to confirmation by the County Legislature.

Community Members. Community members appointed to the board shall be reflective of the diversity of the County's limited English proficient communities, disability communities in need of communications access, representatives from community organizations and faith-based organizations serving either LEP or disabled communities in need of communications access.

Board Membership for Six Community Member Seats. These members of the Board shall be appointed for a term of three years. No member may serve more than two terms, except that those members who are initially appointed to complete the unexpired term of a member may also be eligible to serve two subsequent terms of three years each. The Board shall annually designate one member to serve as Board chairperson. In the event of a vacancy occasioned other than by expiration of the term of office of the chairperson, the Board shall appoint a successor to that office from the Board's membership. Board seats occupied by an Elected Official, or their designee, are not subject to term limits.

The Advisory Board shall be empaneled within ninety days following the effective date of this act. A quorum shall consist of a majority of the members of the Advisory Board entitled to vote on the matter under consideration. Approval of any matter shall require the affirmative vote of a majority of the members voting thereon. The Advisory Board shall adopt by-laws for the management and regulation of its affairs.

The Board shall:

1. Designate the top six languages LEP individuals speak in Erie County as the Countywide Languages for translation and issue notices to all County Agencies by the last day in February on a biennial basis. This process shall consider a wide variety of data sources, including but not limited to data collected by the U.S Census and American Community Survey, public schools, local interpreting agencies, federal refugee resettlement programs and County Agencies to determine which language groups are most in need of language services.
2. Advise County Agencies in developing and implementing their Language Access Plan.



3. Review Agency Language Access Plans and provide written evaluation of the implementation of those plans.
4. Create a mechanism to interact with public regarding proper language access plan implementation.
5. Collect and review annual reports from County Agency language access coordinators.
6. Submit a comprehensive annual report based on County Agency compliance submissions, publish findings on the data collected and additional policy recommendations to the Erie County Legislature no later than the last day in June each year.

### **Section 8. Right to Privacy**

The need for/use of language services by an individual contacting the County shall not be deemed by any County employee as a basis for inquiring into information related to an individual's immigration status or other personal attributes. No County employee shall inquire about or disclose confidential information, including, but not limited to, immigration status, unless such inquiry or disclosure is required by law.

### **Section 9. Effective Date**

- A. This Local Law shall take effect 180 days after it is filed with the Secretary of State.

### **Section 10. Severability**

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, or business shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its specific application.

### **Sponsors:**

**April N.M. Baskin**

**Timothy Meyers**