



LANGUAGE ACCESS PROVIDER REPORT

RCW 41.56.510 (12) (HB 2691, Chapter 289, Laws of 2020)



Washington State Department of
CHILDREN, YOUTH & FAMILIES



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Executive Summary

This report is required by RCW 41.56.510 (12) (HB 2691, passed during the 2020 Legislative Session), which requires the Washington State Department of Children, Youth, and Families (DCYF) to:

- Report on the agency's current process for procuring spoken language interpreters and whether changes from the 2018 legislation have been implemented.
- Report if the 2018 changes have not been fully implemented, identify the barriers, and make recommendations for removing them.
- Identify impacts of the changes to bargaining units for language access providers.
- Make recommendations about how to improve the procurement and accessibility of language access providers.

DCYF uses a mixture of contracts for language interpreter services. For in-person, scheduled appointments, DCYF primarily uses represented Language Access Providers (LAP) via a scheduling and coordinating entity. This coordinating entity contract is held by the Health Care Authority (HCA); the Department of Social and Health Services (DSHS) also uses this contract as all three agencies (DCYF, HCA, and DSHS) comprise a single bargaining unit. The other contracts DCYF utilizes for interpreter services are outlined below.

DCYF has not fully implemented the changes contained in Chapter 253, Laws of 2018, as the agency was relying on the Department of Enterprises' (DES) procurement and resultant contract(s) to access telephonic and video remote interpreting services using LAPs, and this procurement is not yet complete. However, the COVID-19 emergency created an opportunity that allowed us to implement changes so staff could utilize the HCA contract for prescheduled telephone and video interpreter appointments (using video-enabled platforms).

Current Procurement Process and Implementation Update

DCYF primarily purchases in-person, spoken language interpreter services (using LAPs) via the HCA contract with Universal Language Services (ULS), which is the current scheduling and coordinating entity (contract #K2474). Although this contract does not formally include remote interpreting, due to COVID-19, agreements were reached in spring 2020, allowing this contract to be used remotely (i.e., telephonically or via online video-enabled platforms). LAP services acquired through ULS are covered by the collective bargaining agreement (CBA) between the state and the Washington Federation of State Employees (WFSE).

If the ULS contract cannot fill an interpreter request, staff may utilize the DES In-person Interpreter Contract #03514. If staff are unable to fill an in-person interpreter request through the HCA or DES contracts, staff may directly arrange for and purchase interpreter services.

Additionally, DCYF has three contracts for on-demand (immediate and 24/7) telephonic interpreter services. This service ensures that staff can provide meaningful, timely access to clients with limited English proficiency.

In addition to HCA's contract, DCYF intends to utilize DES's master contract, which would provide interpreter services using LAPs for all modalities. This procurement is ongoing. DCYF would likely rely on this contract for prescheduled telephonic and video remote technologies (specifically three-way calling capability to be most useful) or when the HCA contract cannot fulfill an in-person interpreter request. It remains unclear at this time

how the DES contract will ensure that interpreter requests are filled using LAPs (or if there are enough LAPs to meet the potential demand) as required by RCW 39.26.300.

The delay of the DES contract has impacted the full implementation of RCW 39.26.300 (2SSB6245 2018). Additionally, without seeing the final contract, it is difficult to ascertain whether this contract will meet DCYF's needs.

Implementation Barriers and Recommendations

This section addresses the barriers to implementation and recommendations for removing said barriers if chapter 253, Laws of 2018, have not been fully implemented.

The primary barrier to implementation is that DES has yet to finalize contracts required in the legislation. Additionally, DCYF has not had an opportunity to determine if the contracts will meet DCYF needs.

DCYF recommends extending the timeline for the implementation of the DES contract. It remains to be seen whether the contract under review will satisfactorily implement the requirements of RCW 39.26.300 (2SSB 6245 2018) regarding the DES obligation to “develop and implement a model that all state agencies must use to procure spoken language interpreter services by purchasing directly from language access providers or through contracts with scheduling and coordinating entities, or both,” and that “the department must have at least one contract with an entity that provides interpreter services through telephonic and video remote technologies.” If the current contract does not meet these obligations, then DCYF recommends that DES initiate another procurement that will fulfill those requirements.

Managing and monitoring a contract of this type will be complex and costly, so although sharing the costs via a master contract is likely the most cost-efficient method, DCYF may find procuring these services to be cost-prohibitive. This is due to the staffing that would be necessary to manage a contract that must comply with a complex LAP collective bargaining agreement and uncertainty about the availability of enough LAPs as required by RCW 39.26.300 to meet demand. To overcome these barriers, adequate funding would be necessary, in addition to flexibility regarding using non-LAPs within the contract.

Impacts of Changes To the Bargaining Units for Language Access Providers in Chapter 253, Laws of 2018

To date, DCYF has not been impacted by the change in potential bargaining units as these new units remain unrepresented. The definition of the bargaining units contains overlap that will be difficult for DCYF to administer if the DES bargaining unit becomes represented and DCYF uses the DES contract for LAP services. It may also be difficult to administer collective bargaining benefits to LAPs who potentially benefit from three unique contracts.

DCYF is also concerned about dilution of the pool of available LAPs for DCYF interpreter appointments, with other agencies requesting services from the same pool of LAPs. Interpreters may prefer appointments at other agencies over DCYF's social service appointments. Additionally, limiting the DSHS Language Testing and Certification Program's ability to test interpreters only for languages that have more than a 10% unfilled rate may mean that there are fewer LAPs available in the languages where there is the most demand (i.e., without testing of high demand languages not meeting this threshold, the unfilled rates could increase causing shortages of LAPs) (per RCW 74.04.025).

Recommendations for Improving the Procurement and Accessibility of Language Access Providers

The law changes in 2018 and 2020 related to LAPs, COVID-19, the creation of DCYF, and successor CBA bargaining in 2020 have highlighted areas requiring improvement in how DCYF acquires language access services.

DCYF makes the following recommendations:

1. DCYF, DSHS, and HCA are parties to the same bargaining unit that is represented by WFSE. This issue may become more complicated when more bargaining units become represented. DCYF recommends that the Legislature consider both appointing a lead agency to administer the CBA and having a single, statewide bargaining unit for all state agencies.
2. With COVID-19, DCYF has recognized both the need to utilize interpreters remotely whenever possible and the importance of these services being available on-demand. The only on-demand service DCYF currently uses is for over-the-phone interpreters, and this contract does not utilize LAPs. The collective bargaining laws do not fit within the on-demand/non-appointment model, which requires immediate 24/7 services from a large pool of interpreters across the country or globe. DCYF recommends that the Legislature consider these on-demand needs when addressing language access services. Whatever models are developed, these need to support telephonic and video remote technologies that are three-way and on-demand. DCYF also recommends that the Legislature explicitly excludes on-demand services from the definition of appointment in RCW 41.56.030(11).
3. There is a need for a statewide centralized, unified, and coordinated approach to language access services. The new Office of Equity may be the appropriate place for this body of work. The current system is fragmented, siloed, and leads to inconsistent practices and competition among state agencies for resources.
4. DCYF recommends consideration of extending the deadline for the current DES procurement. If the current procurement cannot meet DCYF's needs, DES should be allowed to run another procurement. DCYF also recommends staffing the management of these contracts so they can be sufficiently managed.
5. Relying on the DSHS Language Testing and Certification program for testing of interpreters is not sustainable as the program does not currently have the capacity for testing large numbers of applicants. In addition, their current testing relies on in-person testing. DCYF recommends that the Legislature appoint a lead agency to support a statewide testing strategy that relies upon multiple testing modalities and does not restrict entry into the field.