

# Breaking Down the New York City Department of Consumer Affairs New Foreign Language Rules and FAQs

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# RCNY 2-193(b)

## Records to be Maintained by Debt Collection Agency

### **RCNY 2-193(b) – Records to be Maintained by Debt Collection Agency**

A debt collection agency shall maintain the following records to document its collection activities with respect to all consumers from whom it seeks to collect a debt:

(5) A record indicating the language preference of the consumer, except where the debt collector is not aware of such preference despite reasonable attempts to obtain it.

# RCNY 2-193(c)

## Records to be Maintained by Debt Collection Agency

A debt collection agency shall maintain the following records relating to its operations and practices:

(3) An annual report, in a form made publicly available on the Department's website, identifying, by language, (i) the number of consumer accounts on which an employee collected or attempted to collect a debt owed or due or asserted to be owed or due in a language other than English; and (ii) the number of employees that collected or attempted to collect on such accounts in a language other than English.

# RCNY 5-77(d)

## Unconscionable and Deceptive Trade Practices

False or misleading representations. A debt collector, in connection with the collection of a debt, shall not make any false, deceptive, or misleading representation. Such representations include:

(18) the false, inaccurate, or partial translation of any communication when the debt collector provides translation services; or

(19) the false representation or omission of a consumer's language preference when returning, selling or referring for litigation any consumer account, where the debt collector is aware of such preference.

# RCNY 5-77(e)

## Unconscionable and Deceptive Trade Practices

Unfair practices. A debt collector may not use any unfair or unconscionable means to collect or attempt to collect a debt. Such conduct includes:

(9) after institution of debt collection procedures, collecting or attempting to collect a debt without first requesting and recording the language preference of such consumer.



# RCNY 5-77(f)(2)

## Unconscionable and Deceptive Trade Practices

Validation of debts. Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector who is not a creditor and not employed by a creditor shall, unless the following information is contained in an initial written communication, or the consumer has paid the debt, send the consumer a written notice containing:

- (vii) a statement informing the consumer of any language access services available, including whether the consumer may obtain from the debt collector a translation of any communication into a language other than English; and
- (viii) a statement that a translation and description of commonly-used debt collection terms is available in multiple languages on the Department's website, [www.nyc.gov/dca](http://www.nyc.gov/dca).

# RCNY 5-77(h)

## Unconscionable and Deceptive Trade Practices

Public Websites. Any debt collector that maintains a website accessible to the public must clearly and conspicuously disclose on such website:

- (1) a statement informing the consumer of any language access services available, including whether the consumer may obtain from the debt collector a translation of any communication into a language other than English; and
- (2) a statement that a translation and description of commonly-used debt collection terms is available in multiple languages on the Department's website, [www.nyc.gov/dca](http://www.nyc.gov/dca).

# RCNY 20-489(a)

## Debt Collection Agency

a. "Debt collection agency" shall mean a person engaged in business the principal purpose of which is to regularly collect or attempt to collect debts owed or due or asserted to be owed or due to another and shall also include a buyer of delinquent debt who seeks to collect such debt either directly or through the services of another by, including but not limited to, initiating or using legal processes or other means to collect or attempt to collect such debt.

Excludes Creditors

# NYC Admin Code, Sub. Ch. 30, 20-489(a)

## Debt Collection Agency

a. "Debt collection agency" shall mean a person engaged in business the principal purpose of which is to regularly collect or attempt to collect debts owed or due or asserted to be owed or due to another and shall also include a buyer of delinquent debt who seeks to collect such debt either directly or through the services of another by, including but not limited to, initiating or using legal processes or other means to collect or attempt to collect such debt.

Excludes Creditors

# NYC Rules, Title 6, Ch. 5 5-76

## Debt Collector

Debt collector. The term "debt collector" means an individual who, as part of his or her job, regularly collects or seeks to collect a debt owed or due or alleged to be owed or due.

**Does Not** Exclude persons collecting for Creditors

# Language Access Services

- Not defined in Rule
- FAQs: “Any service available in a language other than English that a debt collector provides to consumers.”



U.S. DOJ, "Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs," (May 2011)  
Available at  
<http://www.cpe.vt.edu/ccaw/presentations/Friday/2b-Hidalgo-Handout2.pdf>

# DOJ's Four Factors

- the number of LEP persons in the eligible service population or likely to be encountered in recipient activities and programs;
- the frequency with which LEP individuals come into contact with the program;
- the importance of the service or information provided by the program;
- and the resources available to the recipient of the federal funds



# DOJ Resources

<https://www.justice.gov/crt/federal-coordination-and-compliance-section-190#:~:text=The%20DOJ%20guidance%20document%20told,into%20contact%20with%20the%20program%3B>

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