

Serving Clients with Limited English Proficiency

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PURPOSE

- **Identify Federal laws that relate to the provision** of services for individuals of limited English proficiency.
- **Identify individuals of limited English proficiency** and the challenges they face in accessing services.
- Identify the elements of a **Language Access Plan**

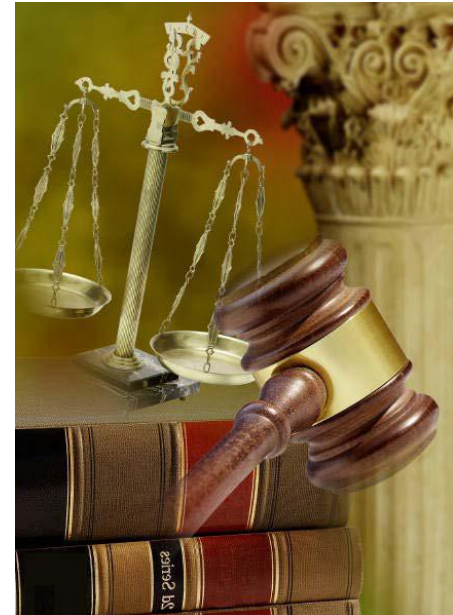
Language Accessibility

- Recipients of Federal funding must ensure “Meaningful Access” to those with Limited English Proficiency (LEP) under Title VI of the Civil Rights Act
- Recipients of Federal funds are not allowed to discriminate based on race, color, or national origin

Title VI of the 1964 Civil Rights Act

“No person in the United States shall, on the ground of race, color or **national origin**, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

Section 601 of Title VI, 42 U.S.C. sec. 2000d



Implementation of Title VI



The U.S. Supreme Court stated that one type of national origin discrimination is discrimination based on a person's inability to speak, read, write or understand English.

(Lau v. Nichols (1974))

Implementation of Title VI

President Clinton signed Executive Order 13166 in August 2000.

“Improving Access to Services for Persons with Limited English Proficiency.”



Requirements of Exec. Order 13166

- 1- The Executive Order requires Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them. **Agencies are supposed to develop an LEP plan.**
- 2- The Executive Order also requires that the Federal agencies work to ensure that **recipients of Federal financial assistance *provide meaningful access*** to their LEP applicants and beneficiaries.

Title VI Covered Entities

Who is covered?

- All entities receiving direct or indirect Federal financial assistance from HHS through grants, contracts, or subcontracts. For example:
 - Hospitals
 - Nursing Homes
 - Physicians and other providers
 - Home health agencies
 - Managed care organizations
 - State Medicaid agencies
 - State, county and local health agencies
 - Universities and other entities with health or social service programs

Who qualifies as a recipient of federal financial assistance?

- Federal financial assistance includes grants and training. Subrecipients are also covered, when federal funds are passed on from one recipient to another. Recipients of federal funds range from state and local agencies, to nonprofits and other organizations
- Title VI covers a recipient's entire program or activity. This means all parts of a recipient's operations are covered. This is true even if only one part of the recipient receives the federal assistance.

Who is a Limited English Proficient Individual?

- LEP persons are those individuals who do not speak English as their primary language and have a limited ability to read, write, speak or understand English.
- The Census revealed that more than 24 million persons over the age of five living in the United States spoke a language other than English and did not speak English “very well”. Of those, 11 million did not speak English at all or spoke it poorly.

(Source: U.S. Census Bureau, 2006-2008 American Community Survey)

- According to the Census, there are 300 languages spoken in the United States

What are recipients of federal funds and federal agencies required to do to meet LEP requirements ?

Recipients and federal agencies are required to take *reasonable steps* to ensure **meaningful access** to their programs and activities by LEP persons.

The starting point is an individualized assessment that balances the following four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
2. The frequency with which LEP individuals come in contact with the program;

Additional Factors

3. the nature and importance of the program, activity, or service provided by the program to people's lives; and
4. the resources available to the grantee/recipient or agency, and costs.

See LEP Policy Guidance issued by different federal agencies:

http://www.lep.gov/guidance/guidance_index.html

Ensuring Quality of Language Access

- Accuracy and effective communication are critical in domestic violence situations.
- Do not rely on friends and family members to interpret for the LEP victim in important and sensitive interactions.
- It is very important to avoid using children as interpreters, especially in domestic violence cases.
- Being bilingual is not enough; interpreters should be trained, neutral, and abide by confidentiality and ethical standards
- Important to ensure that vital documents are translated into the non-English language of each regularly encountered LEP group.

Elements of an Effective LEP Plan

- Demographic profile of the community
- Process for identifying LEP persons who need language assistance
- Identifying ways in which quality language assistance will be provided (for both oral and written information)
- Training staff and volunteers
- Outreach and Education
- Monitoring and updating LEP policy

Elements of an Effective LEP Plan

Language Identification

Point to your language and an interpreter will be provided to you at no cost.

interpreters
We understand.

<p>Albanian Shqip Tregoni gjuhën tuaj dhe një përkthyes do t'ju vihet në dispozicion falas.</p> <p>Amharic አማርኛ የሚናገሩትን ቋንቋ በግት በመጠቀም ያመልክቱ፡፡ ከዚያም አስተርጓሚ ያለምንም ነፃና ይመድብዎታል፡፡</p> <p>Arabic العربية يرجى الإشارة إلى لغتك وسيتم توفير مترجم فوري لك دون ائنى تكلفة.</p> <p>Benjali বাংলা আপনার ভাষার দিকে নির্দেশ করুন যাতে আপনার অন্য বিনাব্যয়ে একজন সোভাধার ব্যবস্থা করা যায়।</p> <p>Burmese မြန်မာ သင့်၏ဘာသာစကားကို ညွှန်ပြပါ။ သင့်အတွက် စကားပြန်တစ်ယောက်ကို အခမဲ့အဖမ်းယူဘဲ ထောက်ပံ့ပေးပါမည်။</p> <p>Cambodian/Khmer ភាសាខ្មែរ ចូរចម្លែងប្រាប់ភាសាអរូបសម្បត្តិ របស់អ្នកដល់បុគ្គលិកប្រកាស ជំនាញខ្មែរស្រី ។</p> <p>Chinese 中文 用手指向您的语言种类，我们就会免费向您提供口译员。 Cantonese 广东话 廣東話 Fukienese 閩南話 閩南話 Fuzhou 福州話 福州話 Mandarin 中文普通話 中文國語 Toishanese 台山話 台山話</p> <p>Farsi/Persian فارسی به زبان خود اشاره کنید و یک مترجم بدون هیچ هزینه ای در اختیار شما قرار داده می شود.</p> <p>French Français Pointez sur votre langue, un interprète vous aidera gratuitement.</p>	<p>Haitian Creole Hait Lonje dwèt ou sou lang ou pale a epi n ap fe ou jwenn youn entèprèt gratis.</p> <p>Hindi हिन्दी अपनी भाषा की तरफ इशारा करें और दुर्भाग्यवश की सेवा आपके मुफ्त प्रदान की जायेगी।</p> <p>Italian Italiano Indicate la lingua prescelta ed un'interprete verrà fornita gratuitamente.</p> <p>Japanese 日本語 あなたの話す言語をお知らせ下さい。無料で通訳をおつけいたします。</p> <p>Korean 한국어 해당 언어를 알려주시면 무료로 통역사를 지원해드립니다.</p> <p>Polish Polski Zaznacz swój język a uzyskasz darmową pomoc tłumacza.</p> <p>Portuguese Português Aponte no seu idioma, e providenciaremos-lhe um (a) intérprete sem custo algum.</p> <p>Russian Русский Укажите на название своего языка, и вам бесплатно будет предоставлен переводчик.</p> <p>Somali Af-Soomaali Farta ku fiq hsqadaada (afkaaga) si turjubaan lacag la'aan ah laguugu keeno.</p> <p>Spanish Español Señale su idioma y recibirá los servicios de un intérprete sin costo alguno para usted.</p> <p>Vietnamese Tiếng Việt Hãy cho biết ngôn ngữ của quý vị và một thông dịch viên sẽ giúp quý vị miễn phí.</p>
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Advocacy for Meaningful Access for LEP Individuals

- Among DV/SA service providers
- Police
- Prosecutors
- Courts
- Social service providers
- Hospitals

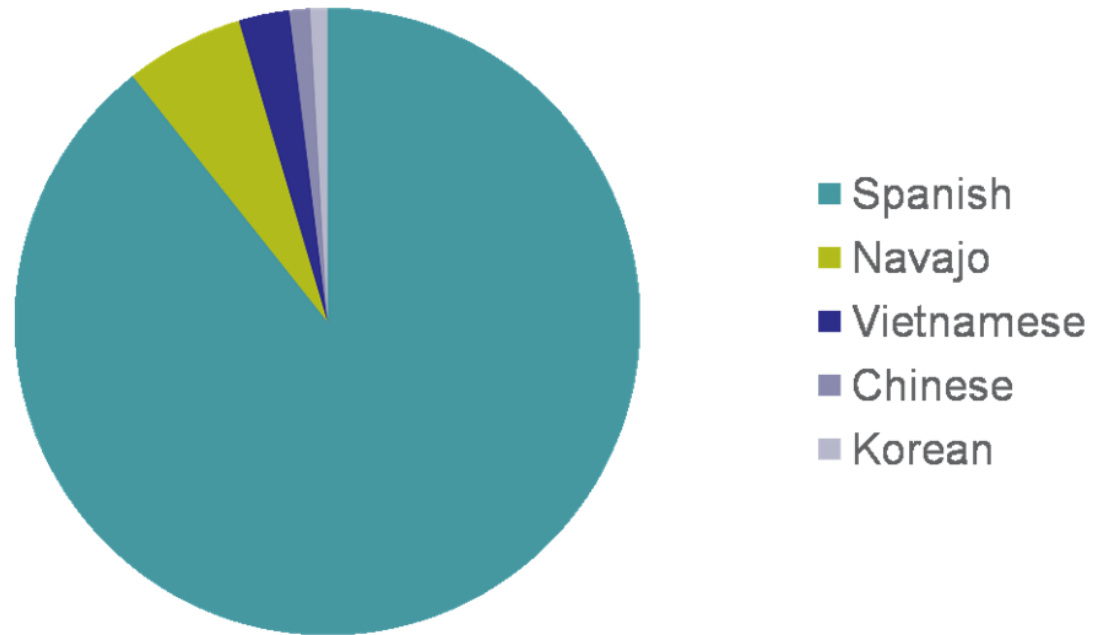
New Mexico LEP Landscape

- Over **35% of New Mexico residents speak** a language other than English in the home...

Source: MLA Language Map

New Mexico LEP Population

94,752 people in New Mexico speak English “not well” or “not at all”



Source: 2005 American Community Survey

Why does it matter?

Individuals with limited English proficiency:

- Are more likely to **misuse services.**
- Are **less satisfied with the care they do** receive.
- Are at **an increased risk of experiencing errors in treatment.**
- Are more likely to **misuse prescription medications and not comply with** follow-up instructions

Translation vs. Interpreting



Bilingual Staff vs. Interpreters

- Large percentages of “bilingual” staff fail to demonstrate that they are sufficiently proficient in both languages to provide services safely.



Bilingual Staff vs. Interpreters

- **Heritage speakers may have varying** levels of fluency and may have gaps in knowledge about their cultural heritage.
- **Nearly 90 percent of all second generation** Latinos and **94 percent** of those in later generations said they speak English very well, with their Spanish proficiency diminishing.

Sources:

- How to Appeal to the Evidence When Justifying Language Services, Marjory Bancroft & Barbara Rayes, 2007
- www.learner.org Teaching Foreign Languages K-12 Glossary
- Mexicans lag in English fluency, survey says, Chicago Tribune, Antonio Olivo, 2007

Working with Untrained Interpreters

Studies show that:

- Untrained interpreters are more likely than trained interpreters to make **errors with adverse clinical consequences... up to 33** per encounter, including omission, addition and changes in meaning.
- Family/friends who interpret often misinterpret and omit information vital to care.



Possible Consequences

Using family, friends, minors, volunteers, strangers, other patients, or otherwise unqualified persons:

- Exposes the agency to liability under Title VI.
- May result in a breach of confidentiality.
- May result in the client being reluctant to fully disclose critical information.
- May result in additions, omissions, and/or changes in content.
- May destroy the “power base” within the family

Interpreter Training

- Laws related to LEP access.
- Culture and barriers to communication.
- Goals and function of the interpreter.
- Facilitating the interpreted session.
- Modes of interpreting.
- Memory and note taking.
- The Interpreter's Code of Ethics.

Interpreter Code of Ethics

- Accuracy
- Confidentiality
- Impartiality
- Respect
- Cultural Awareness
- Role Boundaries
- Professionalism
- Professional Development
- Advocacy

Trained Interpreters and Behavioral Health

- **Improves communication between client and service provider.**
- Improves capacity to gather **accurate background information.**
- Allows for appropriate **assessment, diagnosis, testing and screening.**
- Always results in **better understanding of treatment plans and reduces unnecessary procedures.**

Tips for Working with Interpreters

Before the Session



- Organize the client encounter with the interpreted session in mind.
- Remember that some languages may take longer to interpret.
- Document use of interpreter by name or ID number.
- Brief the interpreter:
 - Who
 - What
 - Where
 - Why

Tips for Working with Interpreters

During the Session

- Speak directly to the client and use the first person.
- Speak at a moderate pace and at normal volume; pause often and offer complete thoughts.
- Be prepared for the interpreter to interrupt should they need clarification, a pause or repetition.
- Avoid using technical vocabulary, abbreviations, idioms, symbolic speech, etc..
- Check for understanding throughout the session.
- Remember that everything said is interpreted.
- Remain in control of the encounter.

Mental Health Interpreting

- In a mental health [setting], ***how a message is*** uttered is as important as ***what is uttered***.
- **Register, syntax, etc. must be maintained and not** altered in any way.
- Statements that are sexual in nature, or profanities, for example, **must not be censored**.
- Incoherent thought, poverty of speech, word salad, and streams of consciousness are all important features of a patient's communication that must be **faithfully rendered from the source into the** target language.

Cultural Brokering

The interpreter may have to:

- Explain traditional beliefs and practices to the provider and specifically articulate what the patient's view of his or her illness may be.
- Use culturally appropriate substitutions for standard interview questions (e.g. questions related to time, place and orientation, as well as the meaning of proverbs, in the mental status exam).

Source: The Intersection of Language, Culture and Mental Health: Considerations for Training in Mental Health Interpreting By Joy Connell, MA Dept. of Mental Health/Office of Multicultural Affairs

Resources for LEP issues

- Official government website of the Federal Interagency Working Group on Limited English Proficiency: www.LEP.gov
- Language Assistance Self-Assessment and Planning Tool for Recipients of Federal Financial Assistance:
<http://www.lep.gov/resources/selfassesstool.htm>
- Executive Order 13166
<http://www.justice.gov/crt/cor/Pubs/eolep.pdf>

• Tips and Tools Specific to Domestic Violence Service Providers and Specialists:
http://www.lep.gov/resources/tips_and_tools-9-21-04.htm#38

• Model Protocol on Services for LEP Immigrant and Refugee Victims of Domestic Violence (Washington State Coalition Against Domestic Violence)
http://www.wscadv.org/docs/protocol_LEP_victims.pdf

- Commonly Asked Questions and Answers
Regarding Exec. Order 13166 – DOJ website

<http://www.justice.gov/crt/cor/Pubs/lepqa.php>

- Complaint Form for DOJ Civil Rights Division,
Coordination and Review Section:

<http://www.justice.gov/crt/cor/complaint2011.pdf>

- Complaint form for HHS Office of Civil Rights:

<http://www.hhs.gov/ocr/civilrights/complaints/complaintformpackage.pdf>

- American Bar Association: State Statutes Requiring the Provision of Foreign Language Interpreters in Civil Proceedings:
<http://www.abanet.org/domviol/docs/ForeignLanguageInterpretersChartJune07.pdf>
- Language Access in State Courts:
http://www.brennancenter.org/content/resource/language_access_in_state_courts
- Brochure with brief overview of Federal LEP requirements for recipients of federal funds:
<http://www.lep.gov/resources/lepbrochure.pdf>

Visit <http://www.lep.gov> &
<http://www.hhs.gov/ocr/civilrights/resources/specialtopics/lep/>

Thank you

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