

DHHS TITLE VI LANGUAGE ACCESS POLICY

Title: Title VI of the Civil Rights Act of 1964; Policy on the Prohibition Against National Origin Discrimination as it Affects Persons with Limited English Proficiency

Authority: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et.seq.

I. Purpose

The purpose of this Policy is to ensure compliance with Title VI of the Civil Rights Act of 1964, and other applicable federal and state laws and their implementing regulations with respect to persons with limited English proficiency (LEP). Title VI of the Civil Rights Act of 1964 prohibits discrimination based on the ground of race, color or national origin by any entity receiving federal financial assistance. Administrative methods or procedures, which have the effect of subjecting individuals to discrimination or defeating the objectives of these regulations, are prohibited.

In order to avoid discrimination on the grounds of national origin, all programs or activities administered by the Department must take adequate steps to ensure that their policies and procedures do not deny or have the effect of denying LEP individuals with equal access to benefits and services for which such persons qualify. This Policy defines the responsibilities for any Division/Institution of the Department and local entities administered by the Department for ensuring LEP individuals can communicate effectively.

II. Scope of Policy

These requirements shall apply to the North Carolina Department of Health and Human Services (DHHS), all Divisions/Institutions within DHHS, all programs and services administered, established or funded by the Department, including subcontractors, vendors, and subrecipients.

The Department and local entities shall ensure that LEP individuals are provided meaningful access to benefits and services provided through contractors or service providers receiving subgrants from the Department.

All Divisions/Institutions within DHHS and all local entities as defined below shall draft a Language Access Plan pursuant to this policy and update the Plan accordingly. The Plan shall include a system for assessing the language needs of LEP populations and individual LEP applicant/recipients; securing resources for language services; providing language access services; assessing and providing staff training; and monitoring the quality and effectiveness of language access services. The Plan shall designate the department of specific staff position within

the Division/Institution or local entity responsible for implementing activities related to this policy.

III. Definitions

- A. Limited English Proficient (LEP) individual – Any prospective, potential, Or actual recipient of benefits or services from the Department or Local Entity who cannot speak, read, write or understand the English language at a level that permits them to interact effectively with health care providers and social service agencies.
- B. Local Entities – Programs and services administered, established or funded by the Department, including but not limited to county Departments of Social Services, county Health Departments, Area Mental Health, Developmental Disabilities and Substance Abuse Programs, Vocational Rehabilitation local offices, subcontractors, vendors, and subrecipients.
- C. Vital Documents – These forms include, but are not limited to, applications, consent forms, letters containing important information regarding participation in a program; notices pertaining to the reduction, denial, or termination of services or benefits, the right to appeal such actions, or that require a response from beneficiary notices advising LEP persons of the availability of free language assistance, and other outreach materials.

IV. Providing Notice to LEP Individuals

- A. The Department and each local entity shall take appropriate steps to inform all applicants, recipients, community organizations, and other interested persons, including those whose primary language is other than English, of the provisions of this policy. Such notification shall also identify the name, office telephone number, and office address of the employee(s) responsible for the local entity's compliance with this policy.
- B. The dissemination of information shall include, but not be limited to posting information in each local entity location, as well as the dissemination of pamphlets explaining rights contained in this policy.
- C. The Department and local entities shall post and maintain signs in regularly encountered languages other than English in waiting rooms, reception areas and other initial points of entries. These signs must inform applicants and beneficiaries of their right to free language assistance services and invite them to identify themselves as persons needing such services.

V. Provision of Services to LEP Applicants/Recipients

A. Assessment for Determining Linguistic Needs

1. Local entities shall assess the language needs of the population to be served, by identifying:
 - a. the language needs of each LEP applicant/recipient
 - b. the points of contact where language assistance is needed; and
 - c. the resources needed to provide effective language assistance, including location, availability and arrangements necessary for timely use.

2. Determining the Language Needs of the Population to be Served

Each local entity is responsible for assessing the needs of the population to be served. Such assessment shall include, but not be limited to the following:

- a. The non-English languages that are likely to be encountered in its program shall be identified.

 - b. An estimate of the number of people in the community for whom English is not the primary language used for communication shall be completed and updated annually. To identify the languages and number of LEP individuals local entities should review:
 - i. census data
 - ii. school system data
 - iii. reports from federal, state, and local governments
 - iv. community agencies, and
 - v. data from client files

 - c. The points of contact in the program or activity where language assistance is likely to be needed shall be identified.
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3. Determining the Language Needs of Each Applicant/Recipient

Each local entity shall determine the language needs of each applicant/recipient. Such assessment shall include, but not be limited to the following:

- a. At the first point of contact, each applicant/recipient will be assessed to determine the individual's primary language. Techniques that can be used include:
 - i. multi-language identification cards, a poster-size language list, or the use of "I speak" peel-off language identification cards for indicating preferred languages
 - ii. English proficiency assessment tools, provided they can be administered in a manner that is sensitive to and respectful of individual dignity and privacy
- b. If the LEP person does not speak or read any of these languages, the local entity shall use a telephone interpreting service to identify the client's primary language.
- c. Staff should not solely rely on the individual's own assessment of his/her English proficiency in determining the need for an interpreter. However, if an individual requests an interpreter, an interpreter shall be provided. A declaration of the client shall be sufficient to establish the client's primary language. Under no circumstances, shall a staff member make this determination based solely on whether an applicant/recipient can answer short questions or questions to which the answer requires simple "yes" or "no" answers.
- d. When local entity staff place or receive a telephone call and cannot determine what language the other person on the line is speaking, a telephone interpretation service shall be utilized in making the determination.
- e. If any applicant/recipient is assessed as LEP, they shall be informed of interpreter availability and their right to have a language interpreter at no cost to them with a notice in writing in the languages identified in Section C. Provisions of Written Translations.

B. Provision of Bilingual/Interpretive Services

1. Local entities shall ensure that effective bilingual/interpretive services are provided to serve the needs of the non-English speaking populations. The provision of bilingual/interpretive services shall be prompt without undue delays. In most

circumstances, this requires language services to be available during all operating hours.

2. The local entity is required to develop uniform procedures providing for language assistance options at all level of interaction with LEP individuals, including telephone interactions. This requirement maybe met through utilization of paid interpreters, qualified bilingual employee, qualified employees of other agencies or community resources. Telephone interpreter services should only be utilized as a back-up system or where other language assistance options are unavailable.
3. Interpreter Standards
 - a. Those providing bilingual/interpretive services shall meet the linguistic and cultural competency standards set forth below. Local entities shall take reasonable steps to screen interpreters and self-identified bilingual staff to certify that the bilingual employee/interpreter:
 - i. Can fluently and effectively communicate in both English and the primary language of the LEP individual
 - ii. can accurately and impartially interpret to and from such languages and English
 - iii. has a basic knowledge of specialized terms and concepts used frequently in the provision of the local entity's services
 - iv. demonstrates cultural competency
 - v. understands the obligation to maintain confidently
 - vi. understands the roles of interpreters and the ethics associated with being an interpreter
 - b. When staff members have reason to believe that an interpreter is not qualified or properly trained to serve as an interpreter, the staff member shall request another interpreter.
4. Using Family Members or Friends as Interpreters
 - a. Applicants/recipients may provide their own interpreter; however the local entity shall not require them to do so.
 - b. The local entity must first inform an LEP person, in the primary language of the LEP person, of the right to free interpreter services and the potential problems for

ineffective communication. If the LEP person declines such services and requests the use of a family member or friend, the local entity may utilize the family member or friend to interpret only if the use of such person would not compromise the effectiveness of services or violate the LEP person's confidentiality. The local entity shall monitor these interactions and again offer interpreter services, if it appears there are problems with this arrangement.

- c. The local entity shall indicate in the LEP individual's file that an offer of interpreter services was made and rejected; that the individual was informed of potential problems associated with using friends or family members; and the name of the person serving as an interpreter at the LEP individual's request.
 - d. Only under extenuating circumstances shall a local entity allow a minor (under the age of 18 years) to temporarily act as an interpreter.
5. Under no circumstances shall the local entity require the applicant/recipient to pay for bilingual/interpretive services
6. Use of Interpreters at Hearings
- a. An interpreter shall be provided for all local hearings and by the Department for all state level hearings, if a party requests an interpreter or if the Hearing Officer determines that an interpreter is necessary.
 - b. When the state hearing is to be held with the assistance of an interpreter, the Hearing Officer shall:
 - i. examine the qualifications and competency of the interpreter
 - ii. disqualify any interpreter determined by the Hearing Officer not to be competent for interpretation purposes
 - iii. assure objective interpretation by, at his/her discretion, disqualifying interpreters who are:
 - aa. claimant's relatives, friends, or an authorized representative
 - bb. county staff who participated in making the decision complained of
 - cc. the county appeals representative

dd. any other individual determined by the Hearing Officer to be detrimental to the hearing process or having a bias or the appearance of being biased

c. A separate oath or affirmation to translate accurately shall be administered to all interpreters.

C. Provision of Written Translations

1. The local entity must develop and implement a plan to provide written materials in languages other than English where a significant number or percentage of the population eligible to be served or likely to be directly affected by the program needs services or information in a language other than English to communicate effectively.
2. Translation of Vital Documents
 - a. Each Division/Institution shall ensure that vital documents are translated into Spanish and made available to local entities.
 - b. When such forms and other written material contain spaces in which the local entity is to insert information, this inserted information shall also be in the individual's primary language. When such forms are completed by applicants/recipients in their primary language, the information must be accepted.
 - c. If, as a result of the local language assessment, it appears that a substantial number, defined as 5% or 1,000 people being served by the local entity, of LEP individuals speak a language other than Spanish, the local entity must translate and provide vital documents in the appropriate language.
3. If the primary language of a LEP applicant or recipient is a language other than Spanish AND the language does not meet the threshold for translation as defined in the preceding paragraph, the LEP individual shall be informed in their own language of the right to oral translation of written notices. The notification shall include, in the primary language of the applicant/recipient, the following language: **IMPORTANT: IF YOU NEED HELP IN READING THIS, ASK THE AGENCY FOR AN INTERPRETER TO HELP. AN INTERPRETER IS AVAILABLE FREE OF CHARGE.**

D. Documentation of Applicant/Recipient Case Records

1. Each local entity shall maintain case record documentation in sufficient detail to permit a reviewer to determine the agency's compliance with this policy.
2. Each local entity shall ensure that case record documentation, including computerized records if appropriate, identifies the applicant's/recipient's ethnic origin and primary language. In those cases where the applicant/recipient is non-English speaking, the local entity shall:
 - a. Document the individuals' acceptance or refusal of forms or other written materials offered in the individual's primary language.
 - b. Document the method used to provide bilingual services, e.g., assigned worker is bilingual, other bilingual employee acted as interpreter, volunteer interpreter was used, or client provided interpreter. When a minor is used as interpreter, the local entity shall so document the circumstances requiring temporary use of minors in the case record.
3. Consent for the release of information shall be obtained from applicants/recipients when individuals other than local entity employees are used as interpreters and the case record shall be so documented.

E. Staff Development and Training

1. Appropriate training in the requirements of this policy shall be provided at new employee orientation and continuing training programs. Effective training is one of the means of ensuring that there is not a gap between the local entity's written policy and the actual practices of employees interacting with LEP individuals.
2. The training shall be required of all appropriate local entity staff, which shall include but not be limited to employees likely to have contact with LEP individuals and those in a supervisory capacity of any employee affected by this policy. The training shall include language assistance policies and procedures, resources available to support such procedures, methods of effective use of interpreters, and familiarization with the discrimination complaint process. The Department will provide program guidelines and technical assistance upon request.

3. Each local entity shall develop and/or provide cultural awareness training programs for all appropriate employees. Cultural awareness training shall pertain to specific cultural characteristics of cultural groups served by the local agency or department to provide a better understanding of, and sensitivity to, the various cultural groups to ensure equal delivery of services.
 - a. In presenting materials relating to specific cultural characteristics, all efforts should be made to avoid stereotypes.
4. Appropriate local entity shall be instructed in the investigation of discrimination complaints.
5. Appropriate training shall be provided for bilingual staff and interpreters employed or utilized by local entities. This includes the ethics of interpreting, including confidentiality; methods of interpreting; orientation to the organization; specialized terminology used by the local entity; and cultural competency.
6. Each local entity shall ensure that applicable grantees, contractors, cooperative agreement recipients and other entities receiving state or federal dollars are trained in the requirements of this policy.
7. Each local entity shall collect and maintain the following information about training provided to staff: the date(s) of such training, the content of such training, the number and types of credit hours awarded; and the names and identifying information of each attendee at the training. Each local entity shall ensure that grantees, contractors, cooperative agreement recipients and other applicable funded entities collect and maintain such information as well.

VI. Compliance Procedures, Reporting and Monitoring

A. Procedures

1. The Department will ensure effective communications for LEP clients throughout the Department and recipients of federal funds through self-evaluation, modification of services and training. Every recipient of funds shall sign a compliance agreement with the Department assuring that it is in compliance with departmental policy.

B. Reporting

1. An annual compliance report shall be completed by each Division/Institution of the Department and sent to the appropriate Division/Institution within the Department. Local entities shall complete annual reports and send it to the appropriate agency within the Department. If compliance is not met during the year or in accordance with the compliance agreements, notification shall be sent to the Office of General Counsel to the attention of the compliance attorney.

C. Monitoring

1. Self-monitoring will be done on a quarterly basis by the Department and local entities. These reports will be maintained and stored in the appropriate Division/Institution Director's office and in the appropriate office of the local entities and shall be accessible by the Department. A standard reporting system will be used in the Department and approved in the compliance agreements with local entities. If reports are not completed in accordance with compliance agreements, notification shall be sent to the Department's Office of General Counsel.
2. On occasion, special reviews by the Department may be necessary. These reviews are initiated when the following occurs:
 - a. There is a need to follow-up on a noncompliance finding from the annual report requiring additional information and a more in-depth examination of specific aspects of the programs and activities.
 - b. Outside sources such as advocacy groups, legal services organizations or the Office for Civil Rights (U.S. Department of Health and Human Services, Region IV) that supply information that a review is necessary.
 - c. The Secretary of the Department may request a review at his or her discretion.
 - d. The Office of General Counsel may initiate a review at their discretion.
3. Upon notification of noncompliance or a compliance review, the Office of General Counsel will organize a group of not more than four individuals to review the issue of noncompliance. The team will consist of the Office of General Counsel's compliance

attorney, a Division/Institution representative, a representative from the Office of Minority Health and Health Disparities and one ad hoc individual, with the approval of the Secretary.

VII. Applicant/Recipient Complaints of Discriminatory Treatment

This section provides for the prompt and equitable resolution of complaints against any program or activity administered by the Department of Health and Human Services, which receives federal financial assistance, alleging discrimination based upon race, color, or national origin in violation of Title VI of the Civil Rights Act of 1964.

A. Complaints

1. A complaint shall be filed in writing, contain the name and address of the person filing it or his/her designee and briefly describe the alleged violation of 45 CFR Part 80. Individuals who do not speak or write in English shall be provided assistance in their primary language.
2. A complaint shall be filed with the Division/Institution Director or Agency Director or the appropriate individual not later than 180 days from the date of the alleged discrimination.
3. A record shall be kept of the complaint in the Division/Institution Director or Agency Director including the information requested in paragraph 1, the date of filing, actions taken and resolution.

B. Investigation

1. A designee of the Division/Institution Director, agency Director or an appropriate individual shall conduct an investigation of the allegations of the complaint. The investigation shall afford all interested persons and their representatives, if any, an opportunity to submit evidence relevant to the complaint.
2. The investigation shall not exceed 30 days, absent a 15-day extension for extenuating circumstances.

C. Resolution of Matters

1. If the investigation indicates a failure to comply with the Act, the Division/Institution Director, Agency Director or his/her designee will so confirm the recipient and the matter will be resolved by informal means whenever possible within 60 days.

2. If the matter cannot be resolved by informal means, then the Division/Institution Director, Agency Director or his/her designee shall refer the matter to the Office of General Counsel, Office of the Secretary with a recommendation that appropriate proceedings be brought or proceed under any applicable state or local law.

APPROVED

Carmen Hooker Odom