

Language Access

Limited English Proficiency



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***Civil Rights Compliance Staff
(CRCS)***

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Objective

To provide services

that are free from discriminatory practices

including and not limited to

National Origin Discrimination

which includes individuals with

Limited English Proficiency

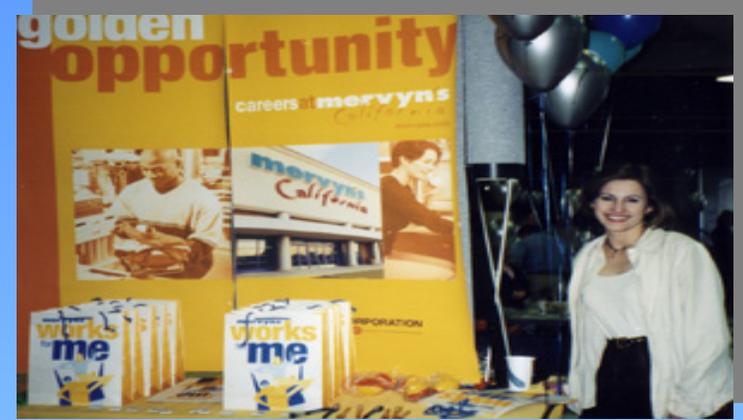


Money, Money, Money +++++

- Money is involved
- **Civil Rights Obligations**
- Broader than just money (any Federal assistance)
 - **Grants**
 - **Technical Support**
 - **Training**
 - **Facilities**



Opportunities



- We have an opportunity to ensure that we provide LEP individuals with meaningful access to DHS programs and services
- As a recipient of Federal funds we are prohibited from discriminating against clients, applicants, potential applicants and employees based on national origin as it affects persons with LEP.
- We at DHS have an opportunity and obligation to provide services that are free from discriminatory practices.

Access Requirements

Applicants, clients and program participants should be informed of their right to:

- *Non-discriminatory service provision*
- *Accommodation*
- *Free sign or other language interpreters*
- *File a complaint*



DHS

Policies and Procedures



Discrimination Complaint Procedure (4.10.1)

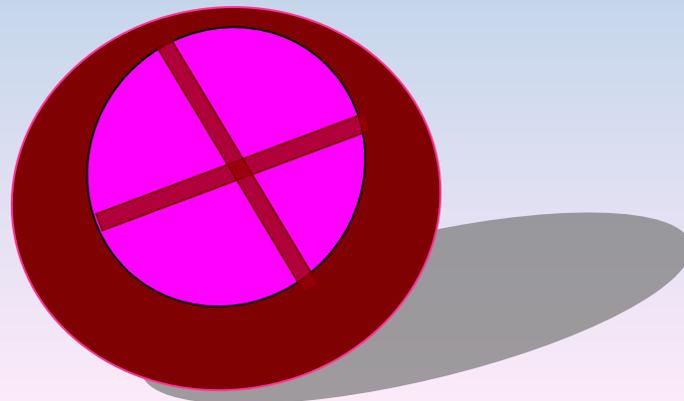
*Opportunity to Participate in Programs, Services and Activities
(4.10.3)*

Complaint Process

- Right to file complaint concurrently
- Must be informed of complaint process in writing
- Forms, brochures, posters in multiple languages
- Guidelines should be clear
- Procedures, processes and forms readily available

No Retaliation

- Separate basis for a claim
- **Proof (specific events/actions)**
- Time limits
- **No changes unrelated to business necessity**



*Opportunity
to Participate in Programs,
Services, and Activities*



Protected Areas in Access to Services

FEDERAL

National Origin

*Political Beliefs **

Race

Color

Sex

*Religion **

Disability

Age

Ancestry

Breast Feeding

STATE



** Applies to Food Stamp Program applicants and recipients*

Title VI Prohibits

- Providing different services to individuals
- Denying opportunity to participate as member of a planning or advisory body
- Selecting the location of a facility with the purpose or effect of excluding individuals

Limited English Proficiency



Goal seems far out of reach.....



What is L E P?



L is for Limited

Speaking
Reading
Writing
Understanding

E is for English

Language
Verbal
Nonverbal
Written

P is for Proficiency

(at levels that permit
effective interaction)



Summary of Problem

- While English is the predominant language in the United States, over 32 million people in the country have Limited English Proficiency.
- L E P Individuals face many barriers to critical health and social services.
- We need to remove the barriers!



Example

The U. S. Department of Health and Human Services found that frequently LEP persons are unable to obtain basic knowledge of how to access benefits and services for which they are eligible.

Such benefits and services include and are not limited to: Food Stamps, Medicare, Medicaid, TANF (Temporary Assistance to Needy Families), SCHIP (State Children's Health Insurance Program), and others including legal services



National Origin Discrimination

- Includes discrimination on the basis of Limited English Proficiency (LEP)
- LEP individual has a primary language other than English and a limited ability to read, speak, or understand English
- Avoid discrimination by taking reasonable steps to ensure meaningful access free of charge and free of discriminatory practices
- Establish and implement policies and procedures for language assistance services (cannot be ad hoc)

Goals

- Prevent National Origin Discrimination
- Take affirmative steps to ensure that individuals with language needs understand their rights and our services
- Enhance communication by providing specific interpreter and translation services free of charge to individuals who need it



What are reasonable steps?

4-Factor Analysis

- Number or proportion encountered in eligible service population
- Frequency with which LEP individuals are in contact with the program
- Nature and importance of services
- Resources available to recipient



Federal Law

- Title VI of the Civil Rights Act

Excerpt: ...may not directly or through contractual or other arrangements because of....national origin:

- Deny an individual any service, financial aid, or other benefit provided by a program,

- Use criteria or methods of administration which have the effect of subjecting individuals to discrimination or have the effect of defeating or substantially impairing accomplishment of objectives of a program.



State Statute

- Hawaii Revised Statutes, Title 21
Labor and Industrial Relations
Chapter 371, Part II
371-31 to 37
Act 290 Effective July
10, 2006
- Language Access
 - Points to Remember
 - Revised Statute



Language Access

Points to Remember

(State Law 290, Rev. 2006)

- Applies to all State public contact activities
- Limited English Proficiency (LEP) individuals are entitled to same level of access as those who speak English
- Self-identified LEP
- Ensure competent, timely, free interpreter services
- Use four-factor analysis to determine needs for written translation
- Develop a Language Access Plan
- Established State level Office of Language Access (DOLIR)
- Eleven-person language Access Advisory Council

DHS Policy and Procedures

- DHS Policy and Procedure **4.10.3**
Opportunity to Access Programs, Services and Activities (Revised 2007)
- Our policy says that we will provide, free of charge, language interpreters for applicants and clients who have limited English proficiency.

(Please see September 2007 Interpreter List.)



Prohibited Practices



- Providing services more limited in scope or lower in quality
- Unreasonable delays in delivery of services
- Limiting participation in a program
- Requiring LEP persons to provide their own interpreters or pay for interpreters

Issues

- **Access** to Programs and Services
- Once access is gained, clients have a right to receive services **without discrimination** on the basis of race, color, national origin, disability or age

Can Do

- Ensure that LEP persons are:
 - Given adequate and correct information
 - Understanding of what services and benefits are available
 - Effectively communicating relevant circumstances of their situation
- Provide a comprehensive language assistance program, written policies, interpreter and/or translation services and effective communication devices.

Enforcement

- Individuals who believe they have been subjected to discrimination may file concurrent complaints with CRCS, HCRC, OCR at HHS, FNS, DOJ or other appropriate Federal Agency.
- **OCR of any of the above may initiate a review of any program or department that receives funds from them.**

Assessment

- Identify languages likely to be encountered
- Identify language needs of each LEP patient/client and record in the client's file
- Identify the points of contact where language assistance is most likely to be needed
- Identify resources needed to provide effective language assistance
- Identify location and availability of resources
- Identify arrangements that must be made to access these resources in a timely manner.

7 Components of DHS Plan

- Development of a reporting system designed to obtain key information about the LEP population who use DHS services or have the potential for doing so
- Compilation of comprehensive multi-lingual listing of DHS employees
- Notice of interpretation/translation services to qualified LEP individuals
- Providing interpretation/translation services to qualified LEP individuals
- Designation of a LEP Plan Coordinator
- Training DHS staff on the implementation of DHS plan
- Seeking stakeholders' input in review and revision of DHS' LEP Plan

Interpreter Requirements

- Proficient in more than one language
- Avoid using friends, family, minor children
- Document client declination
- Arrange before bringing client in
- Use DHS volunteers appropriately
- Exam credentials, including certification, of interpreters

Interpreter Ethics

- **Adhere to standards of confidential communication**
- **Possess knowledge, skill & ability required of the situation**
- **Conduct themselves in appropriate manner for the situation**
- **Demonstrate respect for others at all times**
- **Maintain ethical business practices**
- **Engage in professional development**

Language Services

- **Oral** Language Services
 - Insure Interpreter has knowledge, skill and ability to provide interpretation ethically
 - Check certification where possible
 - In child and other abuse circumstances try to use more than one interpreter
- **Written** Translations
 - Safe Harbor Provision (Vital Documents)
 - Notice of free written translation upon request

Summary

- Inform LEP clients, applicants and potential applicants of their right to free interpreter services
- Avoid advising LEP individuals to bring a friend or family member to interpret
- Contact one or more interpreter services (phone, e-mail, on-line, in-person)
- Use DHS Volunteer Interpreters as appropriate and needed
- Provide information on process for filing a complaint when service delivery is unacceptable

Assurances

Applicant assures and certifies that:

- ✓ **It will comply and assure the compliance of all its SUBGRANTEES AND CONTRACTORS....**
- ✓ It will comply, and its contractors will comply, with nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968 (and other Federal and State civil rights statutes and regulations).
- ✓ **In the event a Federal or State court or administrative agency makes a finding of discrimination AFTER A DUE PROCESS HEARING ON THE GROUND OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX OR DISABILITY against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.**
- ✓ It will provide an Equal Employment Opportunity Program if required to maintain one, where the application is for \$500,000 or more.

Contacts

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Washington, D. C. 20250-9410
or Western Region
90 Seventh Street, Suite 10-100
San Francisco, CA 94103** (800) 795-3272
TTY (202) 720-6382
- **U.S. Department of Health and Human Services
Director, Office of Civil Rights, Room 506-F
200 Independence Avenue, S.W.
Washington, D. C. 20201
or
OCR, Region IX
90 7th Street, Suite 4-100
San Francisco, CA 94103-6705** (415) 705-1330
(202) 619-0403
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- **US. Department of Justice
Office of Civil Rights
810 7th Street, NW
Washington. D.C. 20531** (415) 437-8324
- **Hawaii Civil Rights Commission
30 Punchbowl Street, Room 411
Honolulu, Hi 96809** (202) 307- 0690
- **U. S. Department of Labor
Office of Contract Compliance Programs
Prince Kuhio Federal Building, Room 7326
300 Ala Moana Boulevard
Honolulu, Hawaii 96850** (808) 586-8636
(808) 541-2933



Frequently Asked Questions



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- **Where can I find an American Sign Language Interpreter?**
- **What is the hourly rate for interpreters?**
- **Can we cover travel expenses?**
- **Do interpreters need to be certified? If so, By whom?**
- **Can we contact the courts for interpreters?**
- **Why can't an applicant bring a family member?**

Please lend a hand!

Together we can create an environment for preventing and/or eliminating discriminatory practices in meeting service needs of clients, applicants and potential applicants.





***THANK
YOU***

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