

2009 WASCLA Summit

Sensible Contracting: Understanding Contractual Relationships in the Interpreter Services Industry; Considerations for Interpreters, Agencies, and Providers

Hospitals and other organizations are held to certain laws, federal mandates, regulations and standards while providing language access to Limited English Proficient, Deaf, Blind or Partially Sighted individuals. Each is referenced below.

Joint Commission – Accredits & certifies more than 16,000 healthcare organizations and programs in the United States. This certification is a symbol of quality that reflects an organization's commitment to meeting certain standards. Language Access is part of these standards. Joint Commission standards are the basis of an objective evaluation process that can help health care organizations measure, assess and improve performance. The standards focus on important patient, client or resident care and organization functions that are essential to providing safe, high quality care.

http://www.jointcommission.org/Standards/facts_about_accreditation_standards.htm

• **Joint Commission Standards:**

- **RI = Rights**
- **RI.01.01.01 The organization respects patient rights –and Responsibilities of the Individual**
- EP 2 – The hospital informs the patient of his or her rights (*See also RI.01.01.03, EPs 1-3*)
- EP 5 – The hospital respects the patient's right to and need for effective communication (*See also RI.01.01.03, EP 1*)
- EP 6 – The hospital respects the patient's cultural and personal values, beliefs and preferences

- **RI.01.01.03 The organization respects the patient's right to receive information in a manner he or she understands**
- EP 1 – The hospital provides information in a manner tailored to the patient's age, language, and ability to understand (*See also RI.01.01.01, EPs 2 and 5; PC.04.01.05, EP8*)
- EP 2 – The hospital provides interpreting and translation services, as necessary. (*See also RI.01.01.01, EP2*)
- EP 3 – The hospital communicates with the patient who has vision, speech, hearing, or cognitive impairments in a manner that meets the patient's needs. (*See also RI.01.01.01, EP2*)

- **RI.01.02.01 The organization respects the patient's right to participate in decisions about his or her care, treatment and services**
- EP 1 – The hospital involves the patient in making decisions about his or her care, treatment and services

- **LD = Leadership**
- **LD.02.01.01 The mission, vision and goals of the organization support the safety and quality of care, treatment and services –**
- EP 1- Senior managers and leaders of the organized medical staff work with the governing body to define their shared and unique responsibilities and accountabilities
- EP 3 – Leaders communicate the mission, vision, and goals of staff and the population(s) the hospital serves

- **LD. 03.04.01 The organization communicates information related to safety and quality to those who need it, including staff, licensed independent practitioners, patients, families and external interested parties**
- EP 1 – Communication process foster the safety of the patient and the quality of care
- EP3 - Communication is designed to meet the needs of internal and external users
- EP 5 – Communication supports safety and quality throughout the hospital. (*See also LD.04.04.05, EPs6 and 12*)

- EP 6 – When changes in the environment occur, the hospital communicates those changes effectively
 - **LD.03.06.01 Those who work in the organization are focused on improving safety and quality**
 - EP 4 – Those who work in the hospital are competent to complete their assigned responsibilities
 - **LD.04.01.01 The organization complies with law and regulation**
 - EP 2 – The hospital provides care, treatment, and services in accordance with licensure requirements, laws, and rules and regulations
 - **LD.04.03.07 Patients with comparable needs receive the same standard of care, treatment and services throughout the organization**
 - EP 1 – Variances in staff, setting, or payment source do not affect the outcomes of care, treatment, and services in a negative way.
 - EP 2 – Care, treatment, and services are consistent with the hospital's mission, vision and goals
 - **LD.04.03.09 Care, treatment, and services provided through contractual agreement are provided safely and effectively**
 - EP 4 – Leaders monitor contracted services by establishing expectations for the performance of the contracted services
 - **PC = Provision of care, treatment and services**
 - **PC.02.03.01 The organization provides patient education and training based on each patient's needs and abilities.**
 - EP 1 – The hospital performs a learning needs assessment for each patient, which includes the patient's cultural and religious beliefs, emotional barriers, desire and motivation to learn, physical or cognitive limitations, and barriers to communication
 - **RC = Record of Care, treatment and services**
 - **RC.02.01.01 the medical record contains information that reflects the patient's care, treatment, and services**
 - EP 1 – The medical record contains the following demographic information:
 - The patient's name, address, date of birth and the name of any legally authorized representative
 - The patient's sex
 - The legal status of any patient receiving behavioral health care services
 - The patient's language and communication needs
- Joint Commission website:** <http://www.jointcommission.org/Standards/>

The Department of Justice

1) **Title VI, 42 U.S.C. § 2000d et seq.**, was enacted as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. As President John F. Kennedy said in 1963:

Simple justice requires that public funds, to which all taxpayers of all races [colors, and national Origins]

contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial [color or national origin] discrimination.

If a recipient of federal assistance is found to have discriminated and voluntary compliance cannot be achieved, the federal agency providing the assistance should either initiate fund termination proceedings or refer the matter to the Department of Justice for appropriate legal action. Aggrieved individuals may file administrative complaints with the federal agency that provides funds to a recipient, or the individuals may file suit for appropriate relief in federal court. Title VI itself prohibits intentional discrimination. However, most funding agencies have regulations implementing Title VI that prohibit recipient practices that have the effect of discrimination on the basis of race, color, or national origin.

To assist federal agencies that provide financial assistance, the wide variety of recipients that receive such assistance, and the actual and potential beneficiaries of programs receiving federal assistance, the U.S. Department of Justice has published a Title VI Legal Manual. The Title VI Legal Manual sets out Title VI legal principles and standards. Additionally, the Department has published an Investigation Procedures Manual to give practical advice on how to investigate Title VI complaints. Also available on the Coordination and Review Website are a host of other materials that may be helpful to those interested in ensuring effective enforcement of Title VI.

DOJ Title VI Website: <http://www.usdoj.gov/crt/cor/coord/titlevi.php>

Executive Order 13166

THE WHITE HOUSE

Office of the Press Secretary
(Aboard Air Force One)

For Immediate Release

August 11, 2000

EXECUTIVE ORDER

13166

IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP), it is hereby ordered as follows:

Section 1. Goals.

The Federal Government provides and funds an array of services that can be made accessible to otherwise eligible persons who are not proficient in the English language. The Federal Government is committed to improving the accessibility of these services to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency shall also work to ensure that recipients of Federal financial assistance (recipients) provide meaningful access to their LEP applicants and beneficiaries. To assist the agencies with this endeavor, the Department of Justice has today issued a general guidance document (LEP Guidance), which sets forth the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations. As described in the LEP Guidance, recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

Sec. 2. Federally Conducted Programs and Activities.

Each Federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons.

Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities. Agencies shall develop and begin to implement these plans within 120 days of the date of this order, and shall send copies

of their plans to the Department of Justice, which shall serve as the central repository of the agencies' plans.

Sec. 3. Federally Assisted Programs and Activities.

Each agency providing Federal financial assistance shall draft title VI guidance specifically tailored to its recipients that is consistent with the LEP Guidance issued by the Department of Justice. This agency-specific guidance shall detail how the general standards established in the LEP Guidance will be applied to the agency's recipients. The agency-specific guidance shall take into account the types of services provided by the recipients, the individuals served by the recipients, and other factors set out in the LEP Guidance. Agencies that already have developed title VI guidance that the Department of Justice determines is consistent with the LEP Guidance shall examine their existing guidance, as well as their programs and activities, to determine if additional guidance is necessary to comply with this order. The Department of Justice shall consult with the agencies in creating their guidance and, within 120 days of the date of this order, each agency shall submit its specific guidance to the Department of Justice for review and approval. Following approval by the Department of Justice, each agency shall publish its guidance document in the Federal Register for public comment.

Sec. 4. Consultations.

In carrying out this order, agencies shall ensure that stakeholders, such as LEP persons and their representative organizations, recipients, and other appropriate individuals or entities, have an adequate opportunity to provide input. Agencies will evaluate the particular needs of the LEP persons they and their recipients serve and the burdens of compliance on the agency and its recipients. This input from stakeholders will assist the agencies in developing an approach to ensuring meaningful access by LEP persons that is practical and effective, fiscally responsible, responsive to the particular circumstances of each agency, and can be readily implemented.

Sec. 5. Judicial Review.

This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person.

WILLIAM J. CLINTON

THE WHITE HOUSE,
August 11, 2000.

Executive Order 13166 Website: <http://www.usdoj.gov/crt/cor/Pubs/eolep.php>

The Americans with Disabilities Act

ADA Best Practices Tool Kit for State and Local Governments

Chapter 3

General Effective Communication Requirements Under Title II of the ADA

In this chapter, you will learn about the requirements of Title II of the ADA for effective communication. Questions answered include:

- What is effective communication?
- What are auxiliary aids and services?
- When is a state or local government required to provide auxiliary aids and services?
- Who chooses the auxiliary aid or service that will be provided?

A. Providing Equally Effective Communication

Under Title II of the ADA, all state and local governments are required to take steps to ensure that their communications with people with disabilities are as effective as communications with others.¹ This requirement is referred to as “effective communication”² and it is required except where a state or local government can show that providing effective communication would fundamentally alter the nature of the service or program in question or would result in an undue financial and administrative burden.

What does it mean for communication to be “effective”? Simply put, “effective communication” means that **whatever is written or spoken must be as clear and understandable to people with disabilities as it is for people who do not have disabilities**. This is important because some people have disabilities that affect how they communicate.

How is communication with individuals with disabilities different from communication with people without disabilities? For most individuals with disabilities, there is no difference. But people who have disabilities that affect hearing, seeing, speaking, reading, writing, or understanding may use different ways to communicate than people who do not.

The effective communication requirement applies to ALL members of the public with disabilities, including job applicants, program participants, and even people who simply contact state or local government agencies seeking information about programs, services, or activities.

¹ Department of Justice Nondiscrimination on the Basis of State and Local Government Services Regulations, 28 C.F.R. Part 35, § 35.160 (2005). The Department’s Title II regulation is available at www.ada.gov/reg2.html.

² See Department of Justice Americans with Disabilities Act Title II Technical Assistance Manual II-7.1000 (1993). The Technical Assistance Manual is available at www.ada.gov/taman2.html.

1. Providing Equal Access With Auxiliary Aids and Services

There are many ways that you can provide equal access to communications for people with disabilities. These different ways are provided through “auxiliary aids and services.” **“Auxiliary aids and services” are devices or services that enable effective communication for people with disabilities.**³

Title II of the ADA requires government entities to make appropriate auxiliary aids and services available to ensure effective communication.⁴ You also must make information about the location of accessible services, activities, and facilities available in a format that is accessible to people who are deaf or hard of hearing and those who are blind or have low vision.⁵

Generally, the requirement to provide an auxiliary aid or service is triggered when a person with a disability requests it.

³ 28 C.F.R. §§ 35.104, 35.160.

⁴ 28 C.F.R. Part 35.160(b)(1).

⁵ 28 C.F.R. § 35.163 (a).

2. Different Types of Auxiliary Aids and Services

Here are some examples of different auxiliary aids and services that may be used to provide effective communication for people with disabilities. **But, remember, not all ways work for all people with disabilities or even for people with one type of disability. You must consult with the individual to determine what is effective for him or her.**

- qualified interpreters
- note takers
- screen readers
- computer-aided real-time transcription (CART)
- written materials
- telephone handset amplifiers
- assistive listening systems
- hearing aid-compatible telephones
- computer terminals
- speech synthesizers
- communication boards
- text telephones (TTYs)
- open or closed captioning
- closed caption decoders
- video interpreting services
- videotext displays
- description of visually presented materials
- exchange of written notes
- TTY or video relay service
- email
- text messaging
- instant messaging
- qualified readers
- assistance filling out forms
- taped texts
- audio recordings
- Brailled materials
- large print materials
- materials in electronic format (compact disc with materials in plain text or word processor format)

B. Speaking, Listening, Reading, and Writing: When Auxiliary Aids and Services Must be Provided

Remember that communication may occur in different ways. Speaking, listening, reading, and writing are all common ways of communicating. When these communications involve a person with a disability, an auxiliary aid or service may be required for communication to be effective. The type of aid or service necessary depends on the length and complexity of the communication as well as the format.

1. Face-to-Face Communications

For brief or simple face-to-face exchanges, very basic aids are usually appropriate. For example, exchanging written notes may be effective when a deaf person asks for a copy of a form at the library.

For more complex or lengthy exchanges, more advanced aids and services are required. Consider how important the communication is, how many people are involved, the length of the communication anticipated, and the context.

Examples of instances where more advanced aids and services are necessary include meetings, hearings, interviews, medical appointments, training and counseling sessions, and court proceedings. In these types of situations where someone involved has a disability that affects communication, auxiliary aids and services such as qualified interpreters, computer-aided real-time transcription (CART), open and closed captioning, video relay, assistive listening devices, and computer terminals may be required. Written transcripts also may be appropriate in pre-scripted situations such as speeches.

Computer-Aided Real-Time Transcription (CART)

Many people who are deaf or hard of hearing are not trained in either sign language or lip reading. CART is a service in which an operator types what is said into a computer that displays the typed words on a screen.

2. Written Communications

Accessing written communications may be difficult for people who are blind or have low vision and individuals with other disabilities. Alternative formats such as Braille, large print text, emails or compact discs (CDs) with the information in accessible formats, or audio recordings are often effective ways of making information accessible to these individuals. In instances where information is provided in written form, ensure effective communication for people who cannot read the text. Consider the context, the importance of the information, and the length and complexity of the materials.

When you plan ahead to print and produce documents, it is easy to print or order some in alternative formats, such as large print, Braille, audio recordings, and documents stored electronically in accessible formats on CDs. Some examples of events when you are likely to produce documents in advance include training sessions, informational sessions, meetings, hearings, and press conferences. In many instances, you will receive a request for an alternative format from a person with a disability before the event.

If written information is involved and there is little time or need to have it produced in an alternative format, reading the information aloud may be effective. For example, if there are brief written instructions on how to get to an office in a public building, it is often effective to read the directions aloud to the person. Alternatively, an agency employee may be able to accompany the person and provide assistance in locating the office.

Don't forget . . .

Even tax bills and bills for water and other government services are subject to the requirement for effective communication. Whenever a state or local government provides information in written form, it must, when requested, make that information available to individuals who are blind or have low vision in a form that is usable by them.

3. Primary Consideration: Who Chooses the Auxiliary Aid or Service?

When an auxiliary aid or service is requested by someone with a disability, you must provide an opportunity for that person to request the auxiliary aids and services of their choice, and you must give primary consideration to the individual's choice.⁶ "Primary consideration" means that the public entity must honor the choice of the individual with a disability, with certain exceptions.⁷ The individual with a disability is in the best position to determine what type of aid or service will be effective.

The requirement for consultation and primary consideration of the individual's choice applies to aurally communicated information (i.e., information intended to be heard) as well as information provided in visual formats.

The requesting person's choice does not have to be followed if:

- the public entity can demonstrate that another equally effective means of communication is available;
- use of the means chosen would result in a fundamental alteration in the service, program, or activity; or

- the means chosen would result in an undue financial and administrative burden.

Video Remote Interpreting (VRI) or Video Interpreting Services (VIS)

VRI or VIS are services where a sign language interpreter appears on a videophone over high-speed Internet lines. Under some circumstances, when used appropriately, video interpreting services can provide immediate, effective access to interpreting services seven days per week, twenty-four hours a day, in a variety of situations including emergencies and unplanned incidents.

On-site interpreter services may still be required in those situations where the use of video interpreting services is otherwise not feasible or does not result in effective communication. For example, using VRI / VIS may be appropriate when doing immediate intake at a hospital while awaiting the arrival of an in-person interpreter, but may not be appropriate in other circumstances, such as when the patient is injured enough to have limited mobility or needs to be moved from room to room.

VRI / VIS is different from Video Relay Services (VRS) which enables persons who use sign language to communicate with voice telephone users through a relay service using video equipment. VRS may only be used when consumers are connecting with one another through a telephone connection.

⁶ 28 C.F.R. Part 35.160(b)(2).

⁷ See Title II Technical Assistance Manual II-7.1100.

4. Providing Qualified Interpreters and Qualified Readers

When an interpreter is requested by a person who is deaf or hard of hearing, the interpreter provided must be qualified.

A “qualified interpreter” is someone who is able to sign to the individual who is deaf what is being spoken by the hearing person and who can voice to the hearing person what is being signed by the person who is deaf. Certification is not required if the individual has the necessary skills. To be qualified, an interpreter must be able to convey communications effectively, accurately, and impartially, and use any necessary specialized vocabulary.⁸

Similarly, those serving as readers for people who are blind or have low vision must also be “qualified.”⁹ For example, a qualified reader at an office where people apply for permits would need to be able to read information on the permit process accurately and in a manner that the person requiring assistance can understand. The qualified reader would also need to be capable of assisting the individual in completing forms by accurately reading instructions and recording information on each form, in accordance with each form’s instructions and the instructions provided by the individual who requires the assistance.

Did You Know That There are Different Types of Interpreters?

Sign Language Interpreters

Sign language is used by many people who are deaf or hard of hearing. It is a visually interactive language that uses a combination of hand motions, body gestures, and facial expressions. There are several different types of sign language, including American Sign Language (ASL) and Signed English.

Oral Interpreters

Not all people who are deaf or hard of hearing are trained in sign language. Some are trained in speech reading (lip reading) and can understand spoken words more clearly with assistance from an oral interpreter. Oral interpreters are specially trained to articulate speech silently and clearly, sometimes rephrasing words or phrases to give higher visibility on the lips. Natural body language and gestures are also used.

Cued Speech Interpreters

A cued speech interpreter functions in the same manner as an oral interpreter except that he or she also uses a hand code, or cue, to represent each speech sound.

5. Television, Videos, Telephones, and Title II of the ADA

The effective communication requirement also covers public television programs, videos produced by a public entity, and telephone communications.¹⁰ These communications must be accessible to people with disabilities.

a. Public Television and Videos

If your local government produces public television programs or videos, they must be accessible. A common way of making them accessible to people who are unable to hear the audio portion of these productions is closed captioning. For persons who are blind or have low vision, detailed audio description may be added to describe important visual images.

b. Telephone Communications

Public entities that use telephones must provide equally effective communication to individuals with disabilities. There are two common ways that people who are deaf or hard of hearing and those with speech impairments use telecommunication. One way is through the use of teletypewriters (TTYs) or computer equipment with TTY capability to place telephone calls. A TTY is a device on which you can type and receive text messages. For a TTY to be used, both parties to the conversation must have a TTY or a computer with TTY capability. If TTYs are provided for employees who handle incoming calls, be sure that these employees are trained and receive periodic refreshers on how to communicate using this equipment.

A second way is by utilizing telephone relay services or video relay services. Telephone relay services involve a relay operator who uses both a standard telephone and a TTY to type the voice messages to the TTY user and read the TTY messages to the standard telephone user. Video relay services involve a relay operator who uses both a standard telephone and a computer video terminal to communicate voice messages in sign language to the computer video terminal user and to voice the sign language messages to the standard telephone user.

Public employees must be instructed to accept and handle relayed calls in the normal course of business. Untrained individuals frequently mistake relay calls for telemarketing or collect calls and refuse to accept them. They also may mistakenly assume that deaf people must come into a government office to handle a matter in person even though other people are allowed to handle the same matter over the telephone.

¹⁰ 28 C.F.R. §§ 35.104, 35.160, 35.161.

C. Planning Ahead to Provide Effective Communication

Even before someone requests an auxiliary aid or service from your public entity, plan ahead to accommodate the communication needs of persons with disabilities. Prepare for the time when someone will request a qualified interpreter, Braille documents, video relay, or another auxiliary aid or service.

- **Identify local resources for auxiliary aids and services.** Even if you do not think there is anyone with a disability in your community, you need to be prepared.
- **Find out how you can produce documents in Braille or acquire other aids or services.** Technology is changing, and much of the equipment needed to ensure effective communication is less expensive than it once was. Consider whether it makes sense to procure equipment or obtain services through vendors. If your needs will be best met by using vendors, identify vendors who can provide the aids or services and get information about how much advance notice the vendors will need to produce documents or provide services.

- **Contract with qualified interpreter services and other providers so that interpreters and other aids and services will be available on short notice.** This is especially critical for time-sensitive situations, such as when a qualified interpreter is necessary to communicate with someone who is arrested, injured, hospitalized, or involved in some other emergency.
- **Use the checklist included in this Chapter to assess your agency's ability to provide effective communication and to figure out the next steps for achieving ADA compliance.**
- Train employees about effective communication and how to obtain and use auxiliary aids and services. All employees who interact with the public over the telephone or in person need to know their role in ensuring effective communication.

ADA Website: <http://www.ada.gov/pcatoolkit/chap3toolkit.htm>

HHS Fact Sheet

U.S. Department of Health and Human Services



www.hhs.gov/news

This is an archive page. The links are no longer being updated.

FOR IMMEDIATE RELEASE
Wednesday, Aug. 30, 2000

Contact: Kathleen O'Brien
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HHS Provides Written Guidance for Health and Human Services Providers To Ensure Language Assistance for Persons with Limited English Skills

The U.S. Department of Health and Human Services today issued written policy guidance to assist health and social services providers in ensuring that persons with limited English skills can effectively access critical health and social services.

The guidance, published in the Federal Register by the HHS Office for Civil Rights (OCR), lays out and explains more fully OCR's existing policies. It outlines the legal responsibilities of providers who receive federal financial assistance from HHS -- such as hospitals, HMOs and human service agencies -- to assist people with limited English skills. It also provides a flexible road map to the range of options available to providers in meeting the language needs of the nation's increasingly diverse populations.

Publication of the guidance makes HHS the first federal agency to publish guidance since the issuance of Executive Order 13166 on serving persons with limited English skills, signed by President Clinton on Aug. 11, 2000. The executive order requires each federal agency to have written policies on providing effective service to those with limited English proficiency who are served by federally funded programs.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin by any entity that receives federal financial assistance. Under that law, hospitals, HMOs, social service agencies and other entities that receive federal financial assistance from HHS are required to take the steps necessary to ensure that individuals with limited English proficiency (LEP) can meaningfully access the programs and services. The requirements apply to state-administered as well as private and non-profit facilities and programs that benefit from HHS assistance. OCR is responsible for compliance with the law as it applies to HHS funded programs.

In a letter to governors announcing publication of the written guidance, HHS Secretary Donna E. Shalala said, "This guidance enhances our ability to reach our national goal of eliminating racial and ethnic disparities in health, and will assist in increasing opportunities for persons with limited English proficiency to improve their socioeconomic status."

Some of the state-administered programs where access for persons with limited English proficiency may be especially important include the State Children's Health Insurance Program (SCHIP), Medicaid and Temporary Assistance to Needy Families (TANF).

"Effective communication is the key to meaningful access, whether it is a hospital, a clinic or a benefits program," said OCR Director Thomas Perez. "Failure to communicate effectively can have serious consequences for millions of Americans."

The guidance emphasizes that providers have flexibility in designing effective programs. The types of language assistance a provider must have in place to ensure meaningful access depend on a variety of factors, including the size of the facility or covered entity, the size of the eligible LEP population it serves, the nature of the program or service, the objective of the program, the resources available to the facility or covered entity, and the frequency with which LEP persons come into contact with the program. Small practitioners and providers have considerable

flexibility in determining how to fulfill their obligations to ensure meaningful access for persons with limited English proficiency.

"OCR has a history of working cooperatively with health and social services providers to help them comply with the law and serve their limited English populations effectively without causing undue burden," said Perez. "We have found widespread willingness to improve language access services, especially when providers learn that solutions can be tailored to fit individual situations, and services can be provided cost-effectively."

"With our requirements and flexible policies now in writing, we expect to make even greater progress in cooperation with health and social service providers in making services truly accessible to those with limited English skills. OCR will continue to be available to provide technical assistance to any covered entity seeking to ensure the operation of an effective language assistance program," Perez said.

Depending on the need and the circumstances of the individual facility, options for providing oral language assistance range from hiring bilingual staff or hiring on-staff interpreters to contracting for interpreter services as needed, engaging community volunteers, or contracting with a telephone interpreter service.

Examples of problem practices that have been found by OCR include: providing services to LEP persons which are more limited in scope or lower in quality than those provided to other persons; subjecting LEP persons to unreasonable delays; limiting participation in a program or activity on the basis of English proficiency; providing services to LEP persons that are not as effective as those provided to persons proficient in English; and failing to inform LEP persons of the right to receive free interpreter services or requiring them to provide their own interpreter.

As outlined in the guidance, satisfactory service to LEP clients should include:

- having policies and procedures in place for identifying and assessing the language needs of the individual provider and its client population;
- a range of oral language assistance options, appropriate to each facility's circumstances;
- notice to LEP persons of the right to free language assistance;
- staff training and program monitoring; and
- a plan for providing written materials in languages other than English where a significant number or percentage of the affected population needs services or information in a language other than English to communicate effectively.

"The purpose of putting these policies into writing is to help make the requirements of the law both clear and widely-known, among providers and potential LEP clients as well," Perez said. "We believe that by making these policies known, and making clear the flexibility we provide on a facility-by-facility basis, providers will be more likely to review and improve their language assistance services, and individuals with limited English skills will be better able to access the services they need."

The written guidance, "Title VI Prohibition Against National Origin Discrimination as it Affects Persons with Limited English Proficiency," is available in the Federal Register, through OCR's 10 regional offices, or on the Internet at www.hhs.gov/ocr. This press release will also be available in Spanish and Chinese at the same Internet address. ###

HHS Websites: <http://www.hhs.gov/news/press/2000pres/20000830.html>
<http://www.hhs.gov/ocr/civilrights/resources/specialtopics/lep/lepstrategicplan2000.pdf>

About (OMH) Office of Minority Health

The mission of the Office of Minority Health (OMH) is to improve and protect the health of racial and ethnic minority populations through the development of health policies and programs that will eliminate health disparities.

OMH was established in 1986 by the U.S. Department of Health and Human Services (HHS). It advises the Secretary and the Office of Public Health and Science (OPHS) on public health program activities affecting American Indians and Alaska Natives, Asian Americans, Blacks/African Americans, Hispanics/Latinos, Native Hawaiians, and other Pacific Islanders.

OMH and its regional staff also work closely with [State offices of minority and multicultural health](#).

About OMH Website: <http://www.omhrc.gov/templates/browse.aspx?lvl=1&lvlID=7>

National Standards on Culturally and Linguistically Appropriate Services (CLAS)

The CLAS standards are primarily directed at health care organizations; however, individual providers are also encouraged to use the standards to make their practices more culturally and linguistically accessible. The principles and activities of culturally and linguistically appropriate services should be integrated throughout an organization and undertaken in partnership with the communities being served.

The 14 standards are organized by themes: Culturally Competent Care (Standards 1-3), Language Access Services (Standards 4-7), and Organizational Supports for Cultural Competence (Standards 8-14). Within this framework, there are three types of standards of varying stringency: mandates, guidelines, and recommendations as follows:

CLAS **mandates** are current Federal requirements for all recipients of Federal funds (Standards 4, 5, 6, and 7).

CLAS guidelines are activities recommended by OMH for adoption as mandates by Federal, State, and national accrediting agencies (Standards 1, 2, 3, 8, 9, 10, 11, 12, and 13).

CLAS recommendations are suggested by OMH for voluntary adoption by health care organizations (Standard 14).

Standard 1

Health care organizations should ensure that patients/consumers receive from all staff member's effective, understandable, and respectful care that is provided in a manner compatible with their cultural health beliefs and practices and preferred language.

Standard 2

Health care organizations should implement strategies to recruit, retain, and promote at all levels of the organization a diverse staff and leadership that are representative of the demographic characteristics of the service area.

Standard 3

Health care organizations should ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery.

Standard 4

Health care organizations must offer and provide language assistance services, including bilingual staff and interpreter services, at no cost to each patient/consumer with limited English proficiency at all points of contact, in a timely manner during all hours of operation.

Standard 5

Health care organizations must provide to patients/consumers in their preferred language both verbal offers and written notices informing them of their right to receive language assistance services.

Standard 6

Health care organizations must assure the competence of language assistance provided to limited English proficient patients/consumers by interpreters and bilingual staff. Family and friends should not be used to provide interpretation services (except on request by the patient/consumer).

Standard 7

Health care organizations must make available easily understood patient-related materials and post signage in the languages of the commonly encountered groups and/or groups represented in the service area.

Standard 8

Health care organizations should develop, implement, and promote a written strategic plan that outlines clear goals, policies, operational plans, and management accountability/oversight mechanisms to provide culturally and linguistically appropriate services.

Standard 9

Health care organizations should conduct initial and ongoing organizational self-assessments of CLAS-related activities and are encouraged to integrate cultural and linguistic competence-related measures into their internal audits, performance improvement programs, patient satisfaction assessments, and outcomes-based evaluations.

Standard 10

Health care organizations should ensure that data on the individual patient's/consumer's race, ethnicity, and spoken and written language are collected in health records, integrated into the organization's management information systems, and periodically updated.

Standard 11

Health care organizations should maintain a current demographic, cultural, and epidemiological profile of the community as well as a needs assessment to accurately plan for and implement services that respond to the cultural and linguistic characteristics of the service area.

Standard 12

Health care organizations should develop participatory, collaborative partnerships with communities and utilize a variety of formal and informal mechanisms to facilitate community and patient/consumer involvement in designing and implementing CLAS-related activities.

Standard 13

Health care organizations should ensure that conflict and grievance resolution processes are culturally and linguistically sensitive and capable of identifying, preventing, and resolving cross-cultural conflicts or complaints by patients/consumers.

Standard 14

Health care organizations are encouraged to regularly make available to the public information about their progress and successful innovations in implementing the CLAS standards and to provide public notice in their communities about the availability of this information.

For more information, visit:

- [National Standards on Culturally and Linguistically Appropriate Services \(CLAS\) in Health Care \(Final Report\)](#)
- [National Standards for Culturally and Linguistically Appropriate Services in Health Care \(Executive Summary\)](#)
- [Normas nacionales para servicios cultural y lingüísticamente apropiados en la atención sanitaria \(Resumen ejecutivo\)](#)
- [Cultural Competency Site](#)

OMH CLAS Standards Websites: <http://www.omhrc.gov/templates/browse.aspx?lvl=2&lvlID=15>

Crosswalk of the Office of Minority Health's National Standards for Culturally and Linguistically Appropriate Services (CLAS) and the Joint Commission's 2009 Standards for Hospital Accreditation Program

This document can be used as a guide to look at both the Joint Commission Standards & the Office of Minority Health's (OMH) CLAS Standards.

Website: <http://www.jointcommission.org/NR/rdonlyres/02E99D6E-E4EA-4F6A-A31F-4A10CAE691DC/0/2009OMHJCCLASXwalkHAP.pdf>

Background Checks: WA State Patrol background checks are required by WA state law (RCW 43.43.837) for those who may have potential of working with the public.

Legislature Website: <http://apps.leg.wa.gov/RCW/default.aspx?cite=43.43.837>

WA State Patrol Background Check Website: <https://watch.wsp.wa.gov/>

Immunizations: The CDC, National Institute for Occupational Safety, Health and Advisory Committee on Immunization Practices, Joint Commission – for Accreditation of Health Care Organizations, Occupational Safety and Health Administration, WA Administrative Code and the WA State Department of Health.

Websites – Centers for Disease Control (CDC) Healthcare Personnel Vaccine Recommendations:

<http://www.immunize.org/catg.d/p2017.pdf>

National Institute for Occupational Safety and Health:

<http://www.cdc.gov/niosh/topics/healthcare/>

Health and Advisory Committee on Immunization Practices:

<http://www.cdc.gov/vaccines/recs/default.htm>

Joint Commission – for Accreditation of Health Care Organizations:

<http://www.jointcommission.org/AccreditationPrograms/Hospitals/>

Occupational Safety and Health Administration (OSHA):

http://www.osha.gov/pls/oshaweb/searchresults.category?p_text=Immunizations&p_title=&p_status=CURRENT

Washington Administrative Code (WAC):

<http://apps.leg.wa.gov/WAC/default.aspx?dispo=true&cite=296-62>

WA State Department of Health

<http://www.doh.wa.gov/cfh/Immunize/providers/default.htm>