

Title: Accommodating Persons with Limited English Proficiency (LEP)
Facility:
Date:

I. PURPOSE STATEMENT:

To develop effective guidelines, consistent with Section 504 of the Rehabilitation Act of 1973 (28 U.S.C 794), Section 1557 of the Patient Protection and Affordable Care Act (2010) and Executive Order 13166 which requires persons with limited English proficiency (LEP) have “meaningful access” to healthcare services. Recipients of federal financial assistance are prohibited from discriminating based on a person’s primary (or preferred) language, among other things, failing to provide meaningful access to individuals with limited English proficiency (LEP). Federal fund recipients must also provide the translation of vital documents as part of their language assistance services when necessary to ensure the patient’s access to important written information. Failure to properly assess and subsequently provide a reasonable accommodation is punishable by fine to the provider.

FACILITY is committed to compliance with federal and state laws prohibiting discrimination on the basis of disability. **FACILITY** recognizes its legal obligation to ensure effective communication with persons with disabilities and makes every effort to pro-actively assess communication needs as well as providing the most compassionate care.

This policy requires the development of a language access plan that accommodates persons with LEP in order to ensure them meaningful access to participate in and benefit from healthcare services.

II. RESPONSIBLE PERSONS:

All **FACILITY** staff.

III. DEFINITIONS:

- A. Effective Communication. Communication sufficient to provide the individual with limited English proficiency with substantially the same level of services received by individuals who are not limited in English proficiency.
- B. Interpretation. The act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.
- C. LEP is the acronym for both “limited English proficiency” and “limited English proficient.” The U.S. Census Bureau’s operational definition for LEP is a patient’s self-assessed ability to speak English less than “very well.” Individuals who do not speak English as the primary (or preferred) language and who have limited ability to read, write, speak, or understand English. Individuals with LEP may be competent in English for certain types of communication (like speaking) but still be with LEP for other purposes (like reading or writing).

- D. Language Assistance Services. Oral and written language services needed to assist individuals with LEP to communicate effectively with staff and to provide individuals with LEP meaningful access and equal opportunity to participate fully in the services, activities, or other programs.
- E. Meaningful Access. Language assistance that results in accurate, timely, and effective communication at no cost to the individual with LEP. Meaningful access denotes access that is not significantly restricted, delayed or inferior as compared to programs or services provided to persons who are proficient in the English language.
- F. Primary Language. An individual's primary language is the language in which the individual most effectively communicates.
- G. Qualified Interpreter or Translator. A qualified interpreter (or translator) is an interpreter who has had their specialized vocabulary (medical or legal terminology) proficiency assessed.
- H. Translation. The replacement of written text from one language (source language) to an equivalent written text in another language (target language).
- I. Vital Documents. A document will be considered vital if it contains information that is critical for obtaining federal services and/or benefits, or is required by law.

IV. **POLICY STATEMENT:**

FACILITY will take reasonable steps to ensure that persons with LEP have meaningful access and an equal opportunity to participate in services, activities, programs and any other benefits offered.

This policy also provides for the communication of information contained in vital documents. All necessary qualified language assistance shall be provided free of charge. Language assistance will be provided through the use of qualified interpreters with local organizations or contracted national vendors as well as video remote interpreting (VRI) and telephonic interpreting.

FACILITY staff will be provided notice of this policy and procedure and will be trained on effective communication techniques. Staff will inform all individuals with LEP, of the availability, at no cost, of qualified language assistance.

V. **PROCEDURE:**

A. Equity Compliance Coordinator

The Equity Compliance Coordinator (ECC) (previously known as the 504 Coordinator/ADA Administrator) is responsible for the applicable aspects of Section 504 of the Rehabilitation Act of 1973 (28 U.S.C. 794), Section 1557 of the Patient Protection and Affordable Care Act (2010) and Executive Order 13166.

The ECC is also responsible for the coordination of the required accessibility training, including effective communication techniques for all staff members annually. The Coordinator will oversee the required translation of vital documents and the postings of

notices of nondiscrimination and associated 'taglines' in various languages spoken in the local area.

The ECC will conduct regular reviews of the language access needs of the patient population as well as the monitoring and updating of the implementation of this policy as needed.

B. Identification of Persons who may be LEP

FACILITY will identify the language and communication needs of persons with LEP as needed to ensure effective communication. If necessary, staff may use a language identification card (or "I speak" cards – which are available at www.lep.gov) or posters to determine the preferred language of the patient (or person involved in healthcare decisions).

As soon as **FACILITY** becomes aware of such needs, staff will use the form, "**Notice of Language Assistance Services**" to inform such persons of services and determine what language services may be needed.

If language services are declined by an individual with LEP, staff will then use the "**Waiver of Language Assistance**" to not only document the refusal but also to serve as notice to the individual that they may still request a free qualified interpreter at any time.

The form(s), "**Notice of Language Assistance Services**" and/or the form, "**Waiver of Language Assistance**" will be included in the patient's medical record.

C. Providing Notice to Persons with LEP

FACILITY shall inform persons with LEP of the availability of qualified language assistance, free of charge, by providing written notice in the primary (or preferred) language of the individual with LEP. The **Taglines** will be posted in fifteen (15) languages spoken in the community served. At a minimum, notices and signs will be posted at intake areas and other points of entry, including but not limited to the emergency room, admitting and outpatient areas.

D. Obtaining a Qualified Interpreter

All staff are responsible for obtaining a qualified interpreter when needed to ensure effective communication. **Any and all agencies under contract (or with other arrangements made) for professional language assistance are listed in SECTION VI; the POLICY IMPLEMENTATION section contained within this policy.**

E. The Use of Family or Friends for Professional Language Services

- a. Family members or friends will not be used for language assistance except: in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or
- b. Where the individual in need of communication services specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.

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2. Except in an emergency, family members or friends may be used for language assistance only after an offer of free qualified language assistance is offered and documented by the use of the form, “**Notice of Language Assistance.**”
3. A “**Waiver of Language Assistance**” will be used if any language services are provided by persons not procured by the Facility.
4. Minor children or other patients will not be used to interpret in order to ensure the confidentiality of information and effective communication.
5. **If a family member or friend is not competent or appropriate for any of the previous reasons then a qualified interpreter may be provided to ensure effective communication.**

F. Providing Written Translation

The ECC will coordinate the translation of **vital documents** into the appropriate frequently encountered languages as needed. The translation of other written materials, as well as the written notice of availability of translation services, shall be provided free of charge to persons with LEP.

G. Monitoring Language Needs and Implementation

The ECC will assess changes in the demographics, types of services or other needs that may require modifications to the implementation of this policy. Regular assessment of the effectiveness of these procedures, equipment necessary for the delivery of qualified language services and the complaint process will be conducted.

VI. POLICY IMPLEMENTATION:

1. [Facility to insert **VENDOR USED FOR LANGUAGE ASSISTANCE SERVICES**]
2. [Facility to insert **VENDOR CONTACT INFORMATION** for language assistance services]
3. [Facility to insert **VENDOR HOURS AND AVAILABILITY** for language assistance services]
4. [Facility to insert **DETAILED PROCEDURE TO USE LANGUAGE ASSISTANCE SERVICES PROVIDED**]

VII. COMPLAINT PROCESS:

It is the policy of **FACILITY** not to discriminate on the basis of a person’s preferred or primary language. An internal grievance procedure has been adopted to provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1974 (29 U.S.C. 794), Section 1557 of the Patient Protection and Affordable Care Act or the U.S. Department of Health and Human Services regulations implementing the Acts.

Any person who believes he or she has been subjected to discrimination on the basis of his or her primary or preferred language may file a grievance under this procedure [or under the regular **FACILITY** grievance policy]. It is against the law for **FACILITY** to retaliate against anyone who files a grievance or participates in the grievance process.

The ECC will make appropriate arrangements so that persons with LEP are provided other accommodations if needed to participate in the grievance process.

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The ECC shall conduct a thorough investigation providing an opportunity for all relevant evidence to be submitted as it relates to the alleged discriminatory act.

The filing of a complaint of discrimination based on a person's LEP does not prevent the filing of a complaint with the U.S. Department of Health and Human Services, Office for Civil Rights, electronically through the Office of Civil Rights Complaint Portal, available at:

<https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>, or by mail or phone at:

U.S. Department of Health and Human Services
200 Independence Avenue, SW
Room 509F, HHH Building
Washington, DC 20201
1-800-368-1019, 1-800-537-7697 (TDD)

Complaint forms are available at: <http://www.hhs.gov/ocr/office/file/index.html>

VIII. DOCUMENTATION:

Any and all contacts with interpreting agencies must be documented in patient records. The staff member will document in the medical record that assistance has been provided, offered or refused by the use of the form, "**Notice of Language Assistance Services**" which is attached to this policy.

A "**Waiver of Language Assistance**" will be used if any language services are refused by an individual with LEP.

IX. RESOURCES:

1. [Language Services Providers](#) (approved by HealthTrust).
2. Rehabilitation Act of 1973, Section 504 (29 U.S.C. 794).
3. 28 CFR Part 36, revised as of July 1, 1994 entitled "Non Discrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities".
(http://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm)
4. Effective Communication Resources for Health Providers: <http://www.hhs.gov/civil-rights/for-individuals/special-topics/hospitals-effective-communication/limited-english-proficiency/index.html>
5. Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs: Federal Coordination and Compliance Section of the Civil Rights Division of the U. S. Department of Justice.
6. Access to Services Policy, [ADA.001](#)

NOTICE OF LANGUAGE ASSISTANCE SERVICES

Our staff wants to communicate effectively with you and your family members. Please answer the questions below and return to a staff member in order for us to provide appropriate language services. **All of the services are FREE OF CHARGE to you.**

Patient's Name **Name of Person with aux. services need (if different than patient)** **Medical Record No.**

1. What is your primary (or preferred) language or the language in which you most effectively communicate?

2. Would language assistance services help us communicate more meaningfully with you? YES _____ NO

Do you have any suggestions on how we may communicate better with you? (Please explain)

Signature Date Time a.m. p.m. (please circle)

A copy of our policy *Accommodating Persons with Limited English Proficiency (LEP)* is available free upon request.
Please acknowledge if you have received a copy of this policy. _____ (Initials)

WAIVER OF LANGUAGE ASSISTANCE (Refusing to Have a Medical Interpreter)

We want to provide you with the best care possible including the use of a qualified medical interpreter who understands your primary (or preferred) language as well as complex medical terms. All qualified interpreters receive training to protect your privacy.

We want to make sure you understand the risks if an interpreter is used who is not qualified to interpret complex medical terminology.

If you choose a family member or friend or an interpreter that has NOT had their medical terminology proficiency assessed to interpret for you, that person may not understand what the provider is communicating and may not know the accurate medical translation. Information conveyed in an inaccurate manner may seriously affect your medical treatment.

I, _____, understand that I have a right to receive **free** language assistance in order to communicate with staff and doctors effectively. However, **I DO NOT WANT TO RECEIVE LANGUAGE SERVICES.**

Signature Date Time a.m. p.m. (please circle)

I understand that at any time I can change my mind about this request.
A copy of our policy *Accommodating Persons with Limited English Proficiency (LEP)* is available free upon request.
Please acknowledge if you have received a copy of this policy. _____(Initials)

Place Patient Label Here

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Explanation of Document (for providers and staff)

FACILITY's *Accommodating Persons with Limited English Proficient (LEP)* policy requires that a qualified medical interpreter be provided free of charge to all individuals with LEP in order to ensure patient safety and effective communication.

Individuals with LEP have the right to refuse a qualified medical interpreter and request that a family (or friend) provide interpreting services. An offer of free qualified language assistance must be offered and documented in the medical record by the use of the form, *Notice of Language Assistance Services*. The potential risks of using an interpreter who is not qualified must be explained to individuals with LEP in the person's primary (or preferred) language by the use of the *Waiver of Language Assistance* which will be documented in the medical record.

Individuals with LEP must sign the *Waiver of Language Assistance* each and every time qualified language services are refused by such individuals and this *Waiver* must be included in the medical record.

Providers may request, at their discretion, that a qualified medical interpreter is used despite the signing of the *Waiver*.