



MDH OFFICE OF EQUAL OPPORTUNITY PROGRAMS

Equal Access Compliance Unit

LIMITED ENGLISH PROFICIENCY (LEP)
AGENCY SELF ASSESSMENT & LANGUAGE
ASSISTANCE GUIDANCE

MDH's Office of Equal Opportunity Programs (OEO), Equal Access Compliance Unit (EACU), is providing this guidance to assist MDH entities in assessing and determining strategies for continued compliance and improvement of their programs' Limited English Proficiency (LEP) plans.

Background

LEP stands for Limited English Proficient. This term is used to describe individuals who do not

Title VI of the Civil Rights Act of 1964 states, "*No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.*"

speak English as their primary language and who have a limited ability to read, speak, write, or understand English. These individuals are entitled to language assistance with respect to a particular type of service, benefit, or encounter. Failure to provide equal access to this population may be a violation of Title VI based on the individual's national origin, race and/or color.

Current regulations require that all providers and other recipients or sub-recipients of federal financial assistance provide meaningful access to LEP persons. MDH is considered a covered entity; therefore, this coverage extends to **ALL** of MDH. This means that even if only part of a program, service, facility, board, commission and /or health department receives federal funding, all other parts of MDH must be compliant with LEP regulations.

The laws and policies governing MDH's LEP compliance include:

- TITLE VI, Civil Rights Act of 1964
- Federal Executive Order No. 13166
- Section 1557 of the Patient Protection and Affordable Care Act
- MDH Policy 01.02.05 –Limited English Proficiency Policy
- MDH Policy 01.02.01 – Service Nondiscrimination Policy
- MD Executive Order 01.01.2007.16 – Code of Fair Employment Practices
- MD Annotated Code of MD, State Government Article §10-1101 – 10-1104

Federal guidance explains that the obligation to provide meaningful access is fact-dependent and starts with an individualized assessment that balances four factors:

- I. **Demography** - the number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee
- II. **Frequency of Contact** - the frequency with which LEP individuals come into contact with the program

- III. **Importance** - the nature and importance of the program, activity or service provided by the recipient to its beneficiaries
- IV. **Resources** - the resources available to the grantee/recipient and the costs of interpretation/translation services.

MDH's LEP policy requires that each entity within MDH complete an Annual LEP Report **July 30th** of each calendar year. This report requires that each MDH agency cite the following:

- A. A summary of efforts to fully implement and improve LEP services during the reporting period
- B. An outline of possible initiatives to enhance LEP services that might be implemented during the forthcoming reporting period
- C. A listing of vital documents translated in accordance with this LEP policy
- D. A description of the number of individual translator services provided to LEP individuals and the process used to deliver such services

Adhering to the guidance in this booklet, will assist management, staff, local level LEP Liaisons and other interested parties in both completing the MDH Annual LEP Report and development and implementation of the entities LEP plan. However, adherence to practices cited in this material alone does not ensure compliance with Title VI and other applicable laws and policies.

Conducting the Four Factor Analysis

Step 1: REVIEWING DEMOGRAPHICS

The first step in the Four Factor Analysis includes determining the number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee. Ask these questions:

- What is the program's prior experience with LEP persons?
 - What languages were spoken?
 - What types of language services were needed?
 - Is there a LEP population that may be underserved because of language barriers?
 - What, if any, language barriers exist within the program?

- What demographic data exists regarding the area(s) served by the program?
 - What does the latest census data state?
 - What data may be obtained from the local school systems, community centers or other government agencies about LEP persons located in this geographic area?

TIP:

Add a primary language field to all intake forms and applications for services. Be sure applicants are aware that completing the field is for demographic purposes only; thus, this information is not mandatory to apply for services and will not be considered when assessing needs.

Step 2: DETERMINE FREQUENCY

The second step in the Four Factor Analysis is determining how often specific LEP persons make contact with the program or grantee. Ask these questions:

- How often is each language group serviced?
- What language groups are not serviced? Why?
- What, if any, outreach has the program done to make LEP persons aware that the program(s) exists?

TIP:

Community groups are often familiar with the language access needs of the population. Reach out to local community centers, schools, and churches to gather data and complete outreach.

Step 3: IMPORTANCE

Once the language groups most likely to be affected by the program have been identified, the third step of the Four Factor Analysis requires that the nature and importance of program, activity or service be examined. Ask these questions:

- What compulsory activities does the grantee provide?
- What are the programs goals?
- Who is the programs target audience?
- What impact would denial or delay of access to services or information have to the LEP person?

TIP:

The more important the activity, information, service, or program, or the greater the possible consequences of the contact to LEP individuals, the more likely language services are needed. Interested parties should determine whether denial or delay of access to services or information could have serious implications for an LEP individual.

Step 4: RESOURCES

The final step of the Four Factor Analysis examines the resources available and cost.

- What resources are currently available to the LEP customer?
- What resources are not yet available?
- Are all employees aware of what resources exists and are they utilizing the resources?
- Do employees know who and how to contact the local LEP Coordinator and the MDH LEP Coordinator?
- What percentage of staff is bilingual and able to competently assist LEP persons in the LEP language?
- What are the most common sources utilized for interpretation and translation services (i.e. contracted vendors, community groups, language banks, bilingual staff, or volunteers)?
- What costs are associated with each resource?
- Is it possible to reduce costs without negatively impacting LEP clients?

TIP:

Reducing costs may be accomplished by utilizing vendors contracted through the MD Department of Budget & Management, sharing information through the internet, sharing language assistance materials among entities, advocacy groups and federal grant agencies. Per Federal regulations, entities must explore the most cost effective means of delivering competent and accurate language services before limiting services due to resource concerns.

Best Practices

- Review the MDH LEP POLICY.
- Know your local level LEP Liaison or MDH LEP Coordinator. If you are unaware of who holds this position, Contact the Office of Equal Opportunity Programs, Equal Access Unit, at 410-767-6600.
- Identify the first responders at your agency (receptionists, intake officers, triage, security, etc.) and be sure they are utilizing the language identification or I-SPEAK cards when encountering LEP persons.
- Be sure all staff have copies of the MDH Interpretation & Translation Services information and know how to access vendors for telephonic, written, and on-site interpretations.
- Be sure LEP clients are aware that translation and interpretation services are provided at **NO COST** to them.
- Include the language spoken in the record of all clients so that sufficient access is readily available on all future visits.
- Utilize a recordkeeping process for surveying, collecting and recording primary language, date service requested, and names of participants and contact information of bilingual staff.
- **DO NOT** require or rely on family members or friends of LEP persons to translate/interpret. If the LEP person insists that the family member or friend interpret be sure to note this information in the file. Include that the LEP person was notified services were available at no cost to them. Offer the service **every** time.
- Attend LEP training; allow staff that is most likely to encounter LEP persons, to attend LEP training.
- **DO NOT** rely on employees that were not hired to interpret or translate to do so simply because they speak the same language as the LEP person. Use appropriately trained interpreters/translators.
- Determine your entity's "vital" documentation: i.e., applications, consent forms, complaint forms, tests, letters containing important information (client rights, laws, free language assistance, instructions), etc.
- Be sure the building, where the entity is located, has the required MDH *Notice to the Public Non-Discrimination Policy Statement and Complaint Procedure* posted in a conspicuous location.
- State in outreach documents that free language services are available.
- Contact the Office of Equal Opportunity Programs, Equal Access Compliance Unit, for guidance related to LEP, at 410-767-6600 or visit the website at <https://health.maryland.gov/oeop/Pages/Index.aspx>