

DHMH POLICY

<http://www.dhmh.state.md.us/policies/inpolm.htm>

OFFICE OF DIVERSITY AND INCLUSION (ODI) /
EQUAL OPPORTUNITY PROGRAMS (EOP)

DHMH POLICY 01.02.05
Effective March 9, 2011

LIMITED ENGLISH PROFICIENCY (LEP) POLICY

I. EXECUTIVE SUMMARY

In accordance with applicable State and federal law, the Department of Health and Mental Hygiene (DHMH) seeks to make programs, services, and benefits accessible to eligible individuals who, as a result of national origin, are limited in their English proficiency. The Department's ongoing efforts to make these programs, services and benefits accessible to persons with limited English proficiency (LEP) is consistent with the obligations imposed under Title VI of the Civil Rights Act of 1964 and the Annotated Code of Maryland, State Government Article, §§10-1101—10-1104.

This policy applies to those programs operated or funded by DHMH that provide services or benefits directly to the public; to grant-in-aid programs; and providers of health services, contractors and sub-contractors that receive federal or State funds, which are collectively referred to as "covered entities" in this policy.

Each covered entity that provides services or benefits DIRECTLY to the public shall develop language assistance procedures for 1) assessing the language needs of the population served; 2) translating both oral and written communications and documentation; 3) training staff in the language assistance program requirements; and 4) monitoring to assure that LEP individuals are receiving equal access to services and are not treated in a discriminatory manner.

The Fair Practices Officer in the DHMH Office of Diversity and Inclusion (ODI) shall monitor the LEP Policy compliance efforts of covered entities, and will, with the assistance of program designees, enforce this policy.

II. BACKGROUND

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

The federal government has promulgated policies prohibiting national origin discrimination against persons with limited English proficiency. See Presidential Executive Order 13166, issued August 11, 2000, and U.S. Department of Health and Human Services—Office of Civil Rights Policy Guidance published in the Federal Register on August 30, 2000 [pp. 52762-52774] and August 8, 2002 [pp. 47311 to 47323]. In essence, these policies require federal fund recipients to take reasonable steps to create meaningful access to information and services provided at the State and local level. "What constitutes reasonable steps to ensure meaningful access will be contingent on a number of factors. Among the factors to be considered are the number or proportion of LEP persons

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in the eligible service population, the frequency with which LEP individuals come in contact with the program, the importance of the service provided by the program, and the resources available to the recipient.” Department of Justice Policy Guidance dated August 11, 2000.

The Annotated Code of Maryland, State Government Article, §§10-1101--10-1104, also mandates that State departments, agencies, and programs take reasonable steps to provide equal access to public services for individuals with limited English proficiency. The law also requires certain “vital documents” to be translated into any language spoken by a LEP group that constitutes 3% of the overall population within a specified geographic area under specified circumstances.

This version DHHM 01.02.05 recodifies and supersedes an earlier version codified as DHHM 02.06.07, dated September 5, 2006. The changes to this version are administrative in nature and include changing the codification number, changing the office name and updating references and hyperlinks.

III. POLICY STATEMENTS

A. DEFINITIONS

1. The definitions included in the Annotated Code of Maryland, State Government Article, §10-1102 are hereby included by reference in this policy.

<http://www.michie.com/maryland/lpext.dll/mdcode/20422/210a0/2138c/21392?fn=document-frame.htm&f=templates&2.0#>

2. **“Appropriately trained”**- shall mean:

- proficiency in both English and the language spoken by the LEP individual;
- orientation or training that includes the ethics of interpreting; and,
- fundamental knowledge in both languages of specialized terms and concepts used in the subject program.

3. **“Covered entities”** shall mean, to the extent that they provide services or benefits directly to the public:

- all administrations and programs operated or funded by DHHM;
- all grant-in-aid programs of DHHM;
- all health service providers, contractors, or subcontractors of DHHM that receive Federal or State funds.

“Covered entities” excludes any DHHM unit or other entity that does not provide services or benefits directly to the public including but not limited to the DHHM Office of Procurement and Support Services (OPASS), the Office of Human Resources (OHR), the Laboratories Administration, and the Health Occupation Boards.

4. **“Fair Practices Officer”** shall mean the Executive Director, ODI, or his/her designee.

5. **“Limited English Proficiency (LEP)”** shall describe someone who, as a result of his/her national origin cannot adequately understand or express oneself in a health care or social services setting using the spoken or written English language.

6. “Vital Documents” shall mean documents that individuals applying for services or benefits from a covered entity must understand, respond to or complete in order to access the services/benefits or continue to receive the services or benefits. Vital documents also include documents that inform the participant of his/her rights under each covered entity.

B. GENERAL POLICY STATEMENTS

It is the policy of DHMH that eligible applicants and recipients having limited English proficiency shall be provided with equal access to public services in accordance with State and Federal law. Through the adoption of this policy, DHMH seeks to enhance the quality and efficacy of the services provided to persons with limited English proficiency.

C. RESPONSIBILITIES

1. The Office of Diversity and Inclusion (ODI) is responsible for monitoring the ongoing efforts of all DHMH units to comply with this policy.
2. The Chief Administrative Officer of each DHMH unit shall be responsible for implementing this policy, with respect to the programs operated by that unit.
3. The Equal Opportunity Programs (EOP) will provide technical assistance by cataloging translation and interpreter resources.
4. The EOP will monitor the efforts of covered entities to implement this policy and offer recommendations to enhance the effectiveness of these programs.
5. Each principal DHMH unit and other covered entities identified by the Department will submit an annual report to the EOP beginning July 30, 2004. Subsequent annual reports will be submitted by July 30th of each year. The report shall include the following information:
 - 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;

D. LANGUAGE ASSISTANCE PROCEDURE

1. Language assistance procedures will be developed for each covered entity subject to this policy. These procedures will take into consideration:

- a. The number or proportion of LEP persons eligible to be served or likely to be encountered by the covered entity;
 - b. The frequency with which LEP individuals come in contact with the program;
 - c. Nature and importance of the program, activity or service provided by the program to people's lives; and
 - d. Resources available to the covered entity and costs.
2. Language assistance procedures shall be designed and implemented so that the covered entity has the affirmative capability to communicate with the LEP individual.
 3. Covered entities shall take appropriate steps to make LEP individuals aware that they may request the services of an interpreter or have access to other appropriate communication aids. In accordance with legal mandates, these services shall be supplied by the program at no cost to the individual. Depending on the circumstances, notification may be given verbally by staff, posted at appropriate entry points throughout the facility, and/or printed on forms and brochures.
 4. Program staff will be instructed not to require/request that LEP persons utilize family members, especially minor children or friends as foreign language interpreters. The emotional involvement of family or friends with an LEP person can jeopardize interpretation and translation of critical information. Additionally, family or friends may not be adequately versed in the specialized terminology required for communication between the LEP person and the service provider.
 5. A person's own interpreter should only be used at the request of the LEP person, and when use of that interpreter would not compromise the effectiveness of services or violate the LEP individual's confidentiality. An LEP person's request to use his/her own interpreter will be noted in the individual's record.
 6. Covered entities shall take appropriate steps to secure access to community or contractual interpreter resources. These resources may be utilized in the event that the program does not have sufficient and/or competent in-house interpreter resources or in the event that in-house interpreter resources are not available for a specific language or at a specific time. All costs incurred through the use of a contractual interpreter will be paid by the covered entity.
 7. The procedures and information necessary for securing qualified foreign language interpreters, including contact information for both live interpreters and telephone service interpreters, shall be made available to employees, especially staff that are in direct contact with patients, family members, and program clients (e.g., physicians, nurses, aides, billing clerks, admissions personnel, etc).
 8. If the program utilizes in-house staff interpreters, these staff members will be appropriately trained to provide needed services.

9. The covered entity shall maintain appropriate records of requests for communication assistance.
10. Vital documents will be translated into appropriate languages and made available to LEP individuals.

EXCEPTIONS: "Vital documents" does not include applications and examinations related to licensure, certification, or registration under the Annotated Code of Maryland: Health Occupation Article, Financial Institutions Article, and Business Regulation Article, within the jurisdiction of DHHM or DLLR.

11. Modifications to Language Assistance Procedures will be made whenever necessary to ensure that LEP individuals have meaningful access to DHHM program services.

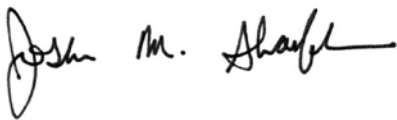
E. COMPLIANCE

The Fair Practices Officer shall monitor the LEP Policy compliance efforts of each covered entity and will, with the assistance of program designees, enforce this policy. The Fair Practices Officer or designee shall investigate LEP complaints as it does other EOP complaints.

IV. REFERENCES

- Title VI, Civil Rights Act of 1964, as amended.
http://www.justice.gov/crt/grants_statutes/titlevi.txt
- *Lau v. Nichols*, 414 U.S. 563 (1974).
<http://laws.findlaw.com/us/414/563.htm>
- Federal Executive Order No. 13166 signed on August 11, 2000.
<http://www.justice.gov/crt/lep/13166/eo13166.html>
- U.S. Department of Health and Human Services, -Office of Civil Rights, Fact Sheet on Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient (LEP) Persons
<http://www.hhs.gov/ocr/civilrights/resources/specialtopics/lep/factsheetguidanceforlep.html>
- Annotated Code of Maryland, -State Government Article, §§10-1101—0-1104.
<http://www.michie.com/maryland/lpext.dll/mdcode/20422/210a0/2138c?fn=document-frame.htm&f=templates&2.0#>

APPROVED:



Joshua M. Sharfstein, M.D., Secretary, DHHM

March 9, 2011

Effective Date