Civil Rights Training


Food and Nutrition Service, USDA
July 11, 2017
Today’s Agenda

- Introduction
- Statutory and Regulatory Requirements
- Meaningful Access
- Language Access Policy
- Written Translations
- Oral Interpretation
- Public Notification
- Monitoring and Compliance
- Resources
Introduction
Who are Persons with Limited English Proficiency (LEP)?

**DEFINITION:**
A person with LEP is someone who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English.
Why is this important?

• 25.2 million people in the U.S. are LEP

• 60.4 million speak a language other than English at home
  • 16,346,401 -- Spanish/Spanish Creole
  • 1,659,508 -- Chinese
  • 850,087 -- Vietnamese
  • 620,149 -- Korean
  • 525,392 -- Tagalog
  • 414,793 -- Russian

Source: U.S. Census Bureau, American Community Survey 2014
School Responsibilities

• Schools must communicate eligibility information “in an understandable and uniform format and to the maximum extent practicable, in a language that parents and guardians can understand”

• LEAs should take appropriate measures to ensure that language is not a barrier to participation
Key Factors for Schools

• Number of students from LEP households
• Proportion of students from LEP households compared with the overall student population
• Frequency of communications with LEP individuals
• Communication methods (e.g., mail, phone, websites, etc.)
• Resources already available (e.g., USDA translation materials) and resources needed (e.g., interpreters)
Identifying LEP Persons

- Identify primary household language during student enrollment, prior to the distribution of applications:
  - Conduct a Home Language Survey
  - Share USDA’s “I Speak” document

- Store language information in an online database to ensure all communications from the school are sent in the appropriate language
School Programs Policy Guidance

- Summarizes LEP guidance and strategies schools can use to ensure access
- User-friendly Q&A format
Statutory and Regulatory Requirements
What is Discrimination?

**DEFINITION:**
Different treatment which makes a distinction of one person or a group of persons from others; either intentionally, by neglect, or by the actions or lack of actions based on...
Six Protected Bases for the Child Nutrition Programs

For the CNPs, different treatment is based on one or more of the six protected bases:

1) Race
2) Color
3) National Origin (LEP)
4) Age
5) Sex
6) Disability
Civil Rights Authorities and Guidance

- Title VI of the Civil Rights of 1964
- Race, color, and national origin
- Civil Rights Restoration Act of 1987
- Clarifies the scope of the Civil Rights Act
- Richard B. Russell National School Lunch Act, Section 9(b)
Civil Rights Authorities and Guidance

- 7 CFR Parts 15, 15a, and 15b
- 7 CFR 245.6(a)(2)
- 28 CFR Part 42
- USDA Departmental Regulation 4330–2
- FNS Instruction 113–1, Section VII and Appendix B
Civil Rights Authorities and Guidance

• Executive Order 13166 – "Improving Access to Services for Persons with Limited English Proficiency" (August 11, 2000)


• Meaningful Access for Persons with Limited English Proficiency (LEP) in the School Meal Programs: Guidance and Q&As (SP 37–2016, May 25, 2016)
Assurances

• Program application must be accompanied by a written assurance that the program or facility will operate in compliance with Civil Rights laws and regulations

• Must be included in all agreements between:
  • State and local agencies
  • Subrecipients
  • Retailers and vendors
Meaningful Access
LEP and Program Access

Federal agencies and recipients (State agencies, local agencies, and subrecipients) must take reasonable steps to ensure meaningful access for LEP persons.
What is Meaningful Access?

Providing reasonable, timely, appropriate and competent language services at no cost to individuals with LEP.
Factors to Consider

• Number or proportion of LEP persons eligible or likely to be encountered by the recipient

• Frequency with which LEP individuals come in contact with the program or activity

• Nature and importance of the program, activity, or service to people’s lives

• Available resources and costs
Language Access Policy
Sample Language Access Policy

• “It is the policy of this entity to provide timely, meaningful access to all agency programs and activities for individuals with LEP.”

• “All personnel must offer and provide qualified, competent language assistance services for free to individuals with LEP.”

• “Notification of free language assistance services must be provided in the languages most frequently encountered by the recipient agency.”
An effective Language Access Plan will:

- Identify a Language Access coordinator
- Require annual Statewide and local self-assessments of language access obligations
- Notify individuals with LEP about the availability of free, competent, and qualified language assistance
Language Access Plan

An effective Language Access Plan will:

• Require use of competent and qualified language service providers

• Ensure confidentiality and privacy

• Discourage the use of family, friends, and children as interpreters
An effective Language Access Plan will:

• Translate vital documents using competent, qualified translators and proofreaders to back-translate for accuracy

• Create a plan for consistently determining which documents are “vital” to the people they serve
An effective Language Access Plan will:

• Ensure access to online automation services and telephone voice mail menus

• Provide a method for identifying persons who need language assistance at the point of service

• Record and track the language spoken by LEP persons and the language assistance provided at the point of service to each LEP person
An effective Language Access Plan will:

- Train staff on how to meet their LEP access obligations, including how to use telephone and in-person interpreter services
- Involve community in implementing the Recipient’s LEP Plan
- Monitor the LEP persons’ access to services and the Recipient’s language assistance measures
Written Translations
Vital Documents

- Include materials that are "vital" to an individual’s participation, including:
  - Application forms
  - Documents that require a response from applicants (i.e. verification letters)
  - Denial letters

- Anytime a vital document is updated, the State agency must, at minimum, issue that document simultaneously in English and the most encountered languages spoken in the area.
Recipients must use qualified, competent translators when translating vital documents.

A person who is a competent interpreter may or may not be competent to translate.
Written Translations

• State agencies must make translations of USDA prototype materials available through a link on their website, and provide LEAs printed copies of application materials as needed

• LEAs may also develop written translations of their application materials

• The translated USDA application package includes:
  • Letter to households
  • Application
  • Verification materials
Translated Applications Website


- Currently available in 50 languages
Written Translations

State agencies and LEAs are expected to:

• Have a system in place to provide verification notices to each household in the parent or guardian’s primary language

• Follow up with households that do not respond to the initial verification request

• Provide oral assistance if the parent or guardian has difficulty understanding the written request
Web-Based Systems

- State agencies and LEAs must ensure access to online automation systems, including:
  - Online applications
  - Websites forms
  - Brochures

- At a minimum, vital information on online automation systems must be available to LEP persons in a language they can understand:
  - Translated website and hyperlinks
  - Multilingual taglines instructing LEP persons how to receive vital information in their primary language
Oral Interpretation
Oral Interpretation

- The act of listening to something in one language (source language) and orally translating it into another language (target language).

- Includes on-site, telephonic, and video teleconferencing interpretation services.

- Video teleconferencing may resolve issues with nuances and nonverbal communication that may occur with telephone service lines.
Vital Communication Situations

- Occur when denial or delay of access to services, benefits or information could have serious or life-threatening implications
- Recipients must provide qualified, competent interpreter services in vital communication situations
Qualified Interpreters

• Demonstrate ability to communicate information accurately in English and in the target language

• Identify and employ the appropriate mode of interpreting (e.g., consecutive, simultaneous, summarization, or sight translation)

• Understand specialized terms or concepts peculiar to the entity’s program or activity

• Understand any particularized vocabulary and phraseology used by the LEP person
Qualified Interpreters

- Follow confidentiality and impartiality rules to the extent the Recipient requires
- Understand and adhere to their role without deviating into a role as counselor, legal advisor, or other roles
- Do not necessarily require formal certification
Bilingual Staff and Volunteers

• Competency requires more than self-identification as bilingual

• Some bilingual persons may communicate effectively when communicating information directly in a non–English language, but not be competent to interpret (or translate) in and out of English
Family, Friends and Children as Interpreters

- LEP persons should be permitted to use family and friends at their own expense if appropriate only after free language assistance has been offered.

- Recipients should not rely on a LEP person’s family members, friends, or other informal interpreters to provide meaningful access.
Family, Friends and Children as Interpreters

- In many circumstances, family members (especially children) and friends of LEP persons are not competent to provide quality or accurate interpretations.

- Issues of confidentiality, privacy, or conflict of interest may also arise.
Telephone Voice Mail Menus

• Should be recorded in the most common languages encountered

• Should provide information about available language assistance services
Public Notification
Elements of Public Notification

- **Program Availability:** Inform applicants, participants, and potentially eligible persons of their program rights and responsibilities and the steps necessary for participation.

- **Complaint Information:** Advise applicants and participants at the service delivery point of their right to file a complaint, how to file a complaint, and the complaint procedures.
Elements of Public Notification

- Post multilingual signs in points of entry and on web sites
- Include notices in outreach documents
- Notify LEP persons on telephone voice mail menus
- Include multilingual taglines with English documents
Nondiscrimination Statement

• All information materials and sources used to inform the public about FNS programs (including web sites) must contain the full nondiscrimination statement.

• This applies to materials from FNS, State agencies, and other subrecipients.

• The nondiscrimination statement must be included on the program home page.

• The statement is not required on every page of the program web site.
Monitoring and Compliance
Self-Monitoring

• Establish a process for determining whether new documents, programs, activities, services, and benefits need to be made accessible for LEP persons

• Incorporate a system for tracking and monitoring the number of LEP persons served, language preferences, translations provided, and other data points
Evaluating Compliance

- Schools may store language information in a central database to ensure all communications are sent in the appropriate language.

- This may prevent duplication of effort and may reduce administrative costs and paperwork.
Administrative and Civil Rights Compliance Reviews

• Compliance with LEP requirements is considered part of Administrative and Civil Rights Compliance reviews.

• Schools that fail to provide free language assistance services to LEP individuals may be discriminating on the basis of national origin in violation of Title VI of the Civil Rights Act of 1964.

• Findings that indicate probable noncompliance will be addressed as appropriate.
Resources
The nonprofit food service account may be used to pay for translation services for food service purposes if there is a need to translate materials in a language that is not currently available.
Methods to Reduce Costs

• Share language materials among and between recipients

• Train bilingual staff to act as interpreters and translators

• Use telephonic and video conferencing services

• Centralize language services

• Formally use qualified volunteers as interpreters
Population Data Sources

• Department of Justice LEP Mapping Tools: http://www.lep.gov/maps/

• U.S. Census Data: http://www.census.gov/2010census/data/

• American Community Survey: http://www.census.gov/acs/

• Migration Policy Institute’s National Center on Immigrant Integration Policy: http://www.migrationpolicy.org/
Other Useful Sources


Questions?
Contact Information

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Professional Standards for This Session

• **Presentation Title:** Ensuring Meaningful Access to School Meals
• **Presentation Key Area:** Key Area 3 – Administration
• **Professional Standards Code:** 3110