

Providing Services to Limited English Proficient Persons

This fact sheet answers common questions regarding the rights of parents and guardians, who do not speak, understand, read, or write English proficiently because it is not their primary language.

Under federal and state law, all programs that receive financial assistance from the state or federal government (or who contract with programs that receive federal or state financial assistance) must take reasonable steps to ensure that limited English proficient (LEP) persons have meaningful access to all programs, services, and information offered. These programs include: state and local agencies, private and non-profit entities, and other sub-recipients of funds.

Who is a Limited English Proficient Person?

A limited English proficient (LEP) person is someone who does not speak English as a primary language, and who has a limited ability to read, speak, write or understand English.

What is the legal authority requiring government-funded programs to provide language services?

Title VI of the federal 1964 Civil Rights Act (42 U.S.C. §2000d) protects individuals from discrimination on the basis of their race, color, or national origin in programs that receive federal financial assistance. National origin discrimination includes when a person is not provided equal access because they are LEP. A federal Executive Order signed in 2000 directs federal agencies to improve meaningful language access to programs by implementing standards of language assistance in all federally assisted programs and activities.

At the state level, the Massachusetts Anti-Discrimination law, GL c. 151B and a series of Executive Orders direct agencies and recipients of state funds to develop language access plans to eliminate discrimination based on language and national origin.

Does this mean my organization has to provide language access?

If an organization is a recipient or sub-recipient of federal or state financial assistance, it has an obligation to provide meaningful language access by providing written translation of vital documents to dominant language groups and oral interpretation in a person's preferred language.

Must an organization provide an interpreter even if a parent is somewhat proficient in English?

Yes. Providers must respond to a parent/guardian's request for interpreters, even if the parents or guardians speak some English or the child speaks English. You may not deny or delay services due to lack of interpreters.

Can I then ask my untrained staff, family members, or a friend of the family to translate or interpret?

No. Organizations must provide written translation or oral interpretation from trained individuals and may not rely on or ask family members, untrained staff members, or friends to translate or

interpret. Language assistance must be free and provided by trained internal staff or competent outside individuals. Organizations may contract with phone and video language interpreter lines to fulfill these requirements.

What other steps must organizations take to provide effective language assistance to LEP clients and their families?

Depending on the frequency of the language requested, organizations must provide translated vital notices or materials in a timely manner. These include evaluations, notices, reports, service plans, and application materials. Many organizations used trained staff or contract companies that provide document translation to fulfill these requirements. Computer programs such as Google translator are not appropriate.

Organizations should ensure that interpreters and translators have knowledge of specialized terms or concepts used, are trained on the role of interpreter or translator, including the ethics of interpretation and translation, and the need to maintain confidentiality. It is not sufficient that the interpreter is bilingual; he or she may be able to communicate directly in the language of the LEP client, but may not have the ability to work as a competent interpreter.

How do I design a Language Access Plan that complies with the law?

The starting point is to create an individualized language access assessment for the organization that balances the following four factors¹:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee/recipient;
2. The frequency with which LEP individuals come in contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to people's lives;
4. The resources available to the grantee/recipient and costs.

Ultimately, the language plan for the organization should:

- Identify LEP persons who need language assistance and provide notice that language services are available and free of charge.
- Identify how the language assistance will be provided and identifies who and how it will provide it.
- Provide training and implements accountability/quality measures to ensure compliance with the plan by all staff.

For more information or resources please contact Tere Ramos, Language Access Attorney at (617) 357-0700 x 350 or tramos@mlri.org.

¹ Some federal regulations provide "safe harbor" provisions on what documents must be translated. Other regulations, like IDEA Part B and C, require that all LEP persons be provided documents in their native language, regardless of the proportion of speakers of the language, or the frequency with which LEP individuals come in contact with the program.