



Working with Immigrant and Refugee Survivors
San Diego, CA
August 9-10, 2018

This project was supported by Grant No. 2016-TA-AX-K028, awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

Language Access for Survivors

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Examples of Language Access Issues in Housing

- A federally subsidized housing provider asks a tenant's minor son to serve as an interpreter.
- A housing authority denies a Deaf tenant's request for an ASL interpreter at a termination hearing.
- A private housing provider refuses to allow a limited English proficient (LEP) prospective tenant to fill out an application because she is not fluent in English.

Title VI of the Civil Rights Act of 1964

- Title VI prohibits discrimination on the basis of race, color, or national origin in programs or activities receiving federal financial assistance.
- *Lau v. Nichols*, 414 U.S. 563 (1974)
 - Failure by recipients of federal financial assistance to provide meaningful language access constitutes national origin discrimination under Title VI.

What is Meaningful Access?

“Meaningful access” is defined in the US Department of Justice’s own Language Access Plan as:

“Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed or inferior as compared to programs or activities provided to English proficient individuals.”

Scenario 1

An agency currently has a language access plan that it has been implementing for the past 7 years. There are numerous bilingual staff that take on interpreting duties. The bilingual staff have been assessed. Recently, they have implemented Video Remote Interpretation at all the offices and individuals are able to reach a telephonic interpreter on their cellphone. Staff do not always get training on working with LEP individuals and sometimes LEP individuals have to wait longer than English speaking individuals.

Is this agency in compliance with Title VI?

Scenario 2

An agency is on a city wide contract to use Language Line to speak with limited English individuals. Only managers are given the number and access code to Language Line. Occasionally, Language Line will come to give training on how to work with telephonic interpreters. On 7/18, a Mongolian speaker, Mr. M, comes to the agency seeking assistance from Ms. E. Upon approaching Ms. E's desk, the Mr. M points to "Mongolian" on the I SPEAK card on the desk. She tries to reach her manager. Her manager cannot be reached.

She writes a piece of paper "7/19 – come back at 3:30pm" and gestures her hand toward the door.

Is this agency in compliance with Title VI?

Scenario 3

An agency has numerous signs in their entry way about free interpretation. Their front of staff is trained on how to identify languages of LEP individuals and how to contact a telephonic or in person interpreter. The agency has a language access plan that is annually updated and has clear protocols on how to contact an interpreter, when training is available, and a position contact for language access issues.

Is this agency in compliance with Title VI?

Housing Providers and Language Access

- Does a particular housing provider have a language access obligation under Title VI?
- Answer depends on what kind of funding the housing receives (if any).
 - Federally subsidized programs (e.g., public housing, project-based Section 8 units) have Title VI language access obligations.
 - Private housing providers that receive no federal funding do not.
 - Voucher landlords that do not receive additional federal financial assistance are not subject to Title VI requirements.

Federal Housing Programs and Title VI Obligations

Title VI Mandate	No Title VI Mandate	Unclear
<ul style="list-style-type: none">• Federal agencies (HUD, USDA)• PHAs/public housing• Project-based Section 8 owners• CDBG, HOME, & HOPWA recipients• Programs listed at HUD's "List of Federally Assisted Programs," 69 Fed. Reg. 68,700 (Nov. 24, 2004)• USDA/RD programs	<ul style="list-style-type: none">• Private housing• Private landlords participating in tenant-based Section 8 voucher program w/o other federal financial assistance (HUD's stated position)	<ul style="list-style-type: none">• Low-Income Housing Tax Credit (LIHTC) properties

HUD's Title VI LEP Guidance (2007)

- Guidance directed at HUD funding recipients
- Topics include
 - Conducting a four-factor analysis;
 - Deciding which language services are appropriate;
 - Developing a language assistance/language access plan (LAP); and
 - Providing appropriate language assistance
 - Oral interpretation
 - Written translation
- **Requires funding recipients to take “reasonable steps to ensure meaningful access to their programs and activities” by LEP persons**

Four-Factor Analysis

1. Number or proportion of LEP individuals served or encountered in the eligible service population.
2. Frequency of contacts.
3. The nature and importance of the program, activity or services.
4. Resources available.

HUD Title VI LEP Guidance: Oral Interpretation

- Reasonable interpretation assistance should be made available.
- There is no “safe harbor” for oral interpretation.
- If staffers are not available to provide oral interpretation, the office should have a plan in place to acquire such assistance (such as a language line).
- Issues with utilizing family, friends, informal interpreters
 - Conflict of interest, competency, and privacy concerns
 - Example of DV incident: Guidance states that use of family/informal interpreters inappropriate

HUD Title VI LEP Guidance: Written Translation

- HUD LEP Guidance defines “vital documents” as those documents that are “critical for ensuring meaningful access by beneficiaries or potential beneficiaries generally and LEP persons specifically.”
- Determining whether a document is vital may depend on facts such as importance of the program and consequences for the LEP individual if accurate, timely information is not provided.
- Basically, will this document impact the tenant’s ability to obtain or remain in housing?

Examples of Vital Documents

- Leases
- Eviction/termination notices
- Consent/complaint forms
- Intake forms
- Notices detailing rights, or the loss/denial/decrease in benefits or services
- Hearing notices
- Notices informing LEP persons that free language assistance is available
- Section 8 opt-out notices to tenants
- Tenant rules
- HUD Tenancy Addendum
- Briefing packets

HUD Title VI LEP Guidance: “Safe Harbor”

- Applies where an LEP population is particularly small
- Only applies to written translation, not **oral interpretation**
- Funding recipient demonstrates “strong evidence of compliance” with written translation obligations if:
 - Vital documents translated for language groups that constitute 5% of or 1,000 individuals (whichever is less) within the eligible service population
 - If there are fewer than 50 individuals but 5% threshold is met, recipient provides written notification in non-English language that free oral interpretation is available
- Reasonable oral interpretation should be available, regardless of LEP population numbers.

Relevant PHA and Housing Provider Documents

- Language access plans (LAPs)
- PHA planning documents, such as:
 - PHA Plan
 - Admission and Continued Occupancy Policy (ACOP)
 - Public housing program
 - Section 8 Administrative Plan
 - Section 8 Housing Choice Voucher program

Language Access and Issue Spotting

- Outdated references
 - No reference to HUD's 2007 LEP Guidance
 - Old data used
- Minors and interpretation
- Use of friends, community volunteers as interpreters
- How free language assistance is offered
- Outreach to non-English media (advertising waitlist openings)
- Vital documents
- Interpreters at hearings (provided free of charge?)
- Identifying LEP individuals
- Training staff
- Is there a language access coordinator?
- Smaller, less widely spoken/unwritten languages
- Resources for Deaf and hard-of-hearing individuals

Language Access Compliance – The Floor

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- Signs indicating free interpretation for walk-ins in multiple languages
- Acknowledging and letting LEP individuals know they are entitled to an interpreter at NO COST
- Providing a qualified interpreter or bilingual staff
- Vital documents are translated
- I SPEAK Cards to Identify language
- Language Access Plan and Protocol

Language Access Plan – The Ceiling

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- Policy integrated into the mission of the agency
- List of interpreters and translators attached to the plan with contact information
- List of translated documents currently available and in process
- List of top 5 most common languages that are current
- Definitions – qualified, certified, bilingual
- Position and updated person's name for contact overseeing the plan
- How language assessment is done
- How often staff training is provided
- Language supporting bilingual advocate refusal to interpret in court or for law enforcement or any other capacity outside of their job
- Feed back or a complaint process
- Attachment of interpreter ethics
- Annual Review

Integral, Not Ancillary

- “We don’t have funds for interpreters”
 - By receiving federal funds, providing meaningful access is mandated.
- Budgeting, planning, and developing relationships to serve LEPs
 - Better and improved communication to obtain important information
 - Supports victims and survivors seeking assistance and validates help seeking
- Start with the “Floor” and move towards the “Ceiling”
 - Language Access is evolving process

Thank you!

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Tips for Working With Interpreters

Large Group Discussion

- How many of you have worked with on cases with qualified interpreters?
- How did you identify the qualified interpreters?
- From your experience working with interpreters what tips would you like to share?

Who Should Interpret?

- Qualified/certified interpreters vs. bilingual advocates
- Difference in roles
- Victims need both bilingual advocates and staff AND
- Professional interpreters

Assessing Whether Client Needs Interpretation

- English as a second language
- Easier to talk about traumatic events in native language
- Communication through a qualified interpreter likely more accurate
- Qualify if limited ability to read, write, speak, understand
- May speak but not read or write
- You can obtain an interpreter to improve your understanding of the client

Questions to Ask to Determine Whether An Interpreter Is Qualified

- How did you learn
 - English?
 - Non-English language?
- As an interpreter what is your
 - Training
 - Experience
 - Credentials
- Have you been certified/qualified as an interpreter
 - What state(s)?

Qualification - Continued

- Have you had any training on violence against women issues?
- Do you know the interpreters code of professional responsibility?
- Are you willing to abide by its terms & sign a confidentiality agreement?
- Any potential conflicts?
 - Know the perpetrator
 - His family?

Interpretation Best Practices

- Interpreter uses a dictionary, takes notes
- Interpreter comfortable with subject matter of the case
- Address cultural experiences ahead of time
- Team interpreting and interpreter breaks

Tips for Working with Interpreters

- Control the interview
- Pre-session with the interpreter
 - Where are they located?
 - Establish what your rules are
 - Hand Signals
- Interpreter has to interpret everything that you say
- Document use of interpreters

Working With Interpreters – Your Role

- Positioning – talk directly to, face client
- Encourage client/interpreter to ask for clarification
- Use first person language
- Avoid double negatives
- Speak simply, clearly, without
 - Legalese
 - Acronyms
 - Slang
- Use short, clear, simple sentences
- Pause for interpretation

Red Flags

- Can you understand the interpreter?
- Does the LEP person look confused?
- Does the interpreter appear confused?
- Is the interpreter engaging in side conversations?
- Is the interpreter summarizing?
- Is there a change in the individual's demeanor?
- Are they using English words?

