WHAT IS LANGUAGE ACCESS?

Providing meaningful access to our services to all patients, regardless of their native language or level of proficiency in English.
WHO ARE LEP PATIENTS?

LEP stands for “limited English proficiency.” LEP patients may include:

- Non-native speakers of English, who have not yet mastered the language
- Native speakers of English, who are unable to write or have lower levels of health literacy

What is health literacy?
According to HHS, health literacy is defined as:

“the degree to which individuals have the capacity to obtain, process, and understand basic health information and services needed to make appropriate health decisions”
HOW DO WE PROVIDE LANGUAGE ACCESS?

- **Bilingual staff**: Staff members who interact with non-native speakers of English in their native language
- **Interpreting**: Oral rendition of a spoken utterance from one language into another.
- **Translation**: Written rendition of a written document from one language into another
- **Sight translation**: Oral rendition of a written document from one language into another
- **Reading documents aloud**: For patients who are unable to read documents, reading documents out loud in the patient’s native language
- **Plain language**: Providing information to patients in language they will understand, regardless of their level of health literacy
TITLE VI AND GUIDANCE

- Title VI
- Executive Order 13166
- HHS Guidance
- OCR Guidance
Title VI is a part of the Civil Rights Act of 1964

It governs nondiscrimination in federally assisted programs.

Title VI prohibits discrimination based on race, color, or national origin.

“No person shall, on the grounds 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 assistance.”

—Civil Rights Act of 1964
In Lau vs Nichols, Chinese-speaking students alleged that they were being treated unfairly by their school district because they could not learn from the English-language instruction.

The Supreme Court ruled that the school was in violation of Title VI and would need to make changes to accommodate the students, stating:

“We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful...It seems obvious that the Chinese-speaking minority receive fewer benefits than the English-speaking majority from respondents’ school system which denies them a meaningful opportunity to participate in the educational program -- all earmarks of the discrimination”

The school district was given two options:

“Teaching English to the students of Chinese ancestry who do not speak the language is one choice. Giving instructions to this group in Chinese is another”

This established a legal precedent for recipients to provide language access services in order to comply with Title VI.
Executive order 13166 set the stage for more comprehensive legislation on the implementation of Title VI.

It requires each federal agency to ensure that LEP individuals have equal access, stating that federal agencies must:

“work to ensure that recipients of federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.”

It also requires each agency to establish their own standards for implementing Title VI:

“each agency providing Federal financial assistance shall draft Title VI guidance specifically tailored to its recipients that is consistent with the LEP Guidance issued by the Department of Justice.”

Based on this executive order, the DOJ is tasked with providing LEP guidance to other federal agencies and ensuring consistency across agencies.
OCR/HHS GUIDANCE (2000)

- Pursuant to Executive Order 13166, the department of Health and Human Services created policy guidance on Title VI—we are subject to this guidance because we receive grants from HRSA and accept government health care plans (example: Medicare).

- Discusses the risks of using family and friends as interpreters.

- Sets requirements for translation:
  - 5% or 1,000 individuals: vital documents
  - 10% or 3,000 individuals: all documents

- It sets 4 “keys to Title VI Compliance in the LEP Context,” characteristic of compliant language access programs:
  - Assessment
    “conducts a thorough assessment of the language needs of the population to be served”
  - Development of Comprehensive Written Policy on Language Access
    “develops and implements a comprehensive written policy that will ensure meaningful communication”
  - Training of Staff
    “takes steps to ensure that staff understands the policy and is capable of carrying it out”
  - Vigilant Monitoring
    “conducts regular oversight of the language assistance program to ensure that LEP persons meaningfully access the program”
OCR/HHS GUIDANCE (2003)

Issued after a 2002 memorandum required agencies to re-publish their LEP guidance based on the DOJ guidance. This ensured consistency in the implementation of Title VI across government agencies.

- Adds guidance on competence of interpreters
  - Employ appropriate mode of interpreting
  - Demonstrate knowledge of specialized terminology
  - Understand and follow rules on impartiality and confidentiality

- Adds guidance on competence of translators
  - Revision process
  - Back translation

- Sets more standards on use of friends and family members
  - Avoid suggesting use of family members
  - Document refusal if patient refuses language services provided
  - Suggest having a trained interpreter sit in on the encounter
  - Assess the competence of the friend or family member
The CLAS Standards were created by the department of Health and Human Services (HHS).

The standards vary in level of stringency:
- **CLAS Mandates**: Current requirements for all recipients of federal funding (4-7)
- **CLAS Guidelines**: Recommended by the OMH for adoption as mandates by federal, state, and national accrediting agencies (1-3, 8-13)
- **CLAS Recommendation**: Recommended by OMH for voluntary adoption by healthcare providers (14)

The standards are organized by theme:
- *Culturally competent care*: (1-3)
- *Language access services*: (4-7)
- *Organizational Supports for Cultural Competence*: (8-14)
CULTURALLY COMPETENT CARE (GUIDELINES)

- **Standard 1**: Health care organizations should ensure that patients/consumers receive from all staff members effective, understandable, and respectful care that is provided in a manner compatible with their cultural health beliefs and practices and preferred language.

- **Standard 2**: Health care organizations should implement strategies to recruit, retain, and promote at all levels of the organization a diverse staff and leadership that are representative of the demographic characteristics of the service area.

- **Standard 3**: Health care organizations should ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery.
**LANGUAGE ACCESS SERVICES (MANDATES)**

- **Standard 4:** Health care organizations must offer and provide language assistance services, including bilingual staff and interpreter services, at no cost to each patient/consumer with limited English proficiency at all points of contact, in a timely manner during all hours of operation.

- **Standard 5:** Health care organizations must provide to patients/consumers in their preferred language both verbal offers and written notices informing them of their right to receive language assistance services.

- **Standard 6:** Health care organizations must assure the competence of language assistance provided to limited English proficient patients/consumers by interpreters and bilingual staff. Family and friends should not be used to provide interpretation services (except on request by the patient/consumer).

- **Standard 7:** Health care organizations must make available easily understood patient-related materials and post signage in the languages of the commonly encountered groups and/or groups represented in the service area.
ORGANIZATIONAL SUPPORTS FOR CULTURAL COMPETENCE (GUIDELINES)

- **Standard 8:** Health care organizations should develop, implement, and promote a written strategic plan that outlines clear goals, policies, operational plans, and management accountability/oversight mechanisms to provide culturally and linguistically appropriate services.

- **Standard 9:** Health care organizations should conduct initial and ongoing organizational self-assessments of CLAS-related activities and are encouraged to integrate cultural and linguistic competence-related measures into their internal audits, performance improvement programs, patient satisfaction assessments, and outcomes-based evaluations.

- **Standard 10:** Health care organizations should ensure that data on the individual patient’s/consumer’s race, ethnicity, and spoken and written language are collected in health records, integrated into the organization’s management information systems, and periodically updated.

- **Standard 11:** Health care organizations should maintain a current demographic, cultural, and epidemiological profile of the community as well as a needs assessment to accurately plan for and implement services that respond to the cultural and linguistic characteristics of the service area.

- **Standard 12:** Health care organizations should develop participatory, collaborative partnerships with communities and utilize a variety of formal and informal mechanisms to facilitate community and patient/consumer involvement in designing and implementing CLAS-related activities.

- **Standard 13:** Health care organizations should ensure that conflict and grievance resolution processes are culturally and linguistically sensitive and capable of identifying, preventing, and resolving cross-cultural conflicts or complaints by patients/consumers.
ORGANIZATIONAL SUPPORTS FOR CULTURAL COMPETENCE (RECOMMENDATION)

- **Standard 14**: Health care organizations are encouraged to regularly make available to the public information about their progress and successful innovations in implementing the CLAS standards and to provide public notice in their communities about the availability of this information.
Oregon has its own set of requirements for language access in addition to the federal requirements.

This statute requires the use of healthcare interpreters who are qualified or certified through the Oregon Health Authority:

“It is the policy of the Legislative Assembly to require the use of certified health care interpreters or qualified health care interpreters whenever possible to ensure the accurate and adequate provision of health care to persons with limited English proficiency and to persons who communicate in sign language.”
HHS LANGUAGE ACCESS PLAN
The HHS Language Access Plan was created to establish standards for language access for all HHS agencies.
10 Elements

1. Needs and Capacity Assessment
2. Oral Language Assistance Services
3. Written Translation
4. Policies and Procedures
5. Notification of the Availability of Language Assistance at No Cost
6. Staff Training
7. Access and Quality Assessment
8. Stakeholder Consultation
9. Digital Information
10. Grant Assurance and Compliance
DEMOGRAPHICS
NEEDS AND CAPACITY ASSESSMENT

- Annual assessment conducted by language access team.
- Evaluates demographic on our patients and community to see how well we are covering our language access needs and providing outreach.
- Evaluates how well we are able to cover needs with our staff, determines whether hiring additional staff may be necessary.