



# POLICY AND PROCEDURES FOR COMMUNICATION WITH PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP) UPDATED DECEMBER 2017

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## PURPOSE

The purpose of this plan is to ensure clients of Mississippi Balance of State (BoS) CoC's member agencies meaningful access to services, programs, and activities although they may be limited in their English language proficiency. BoS is committed to this Language Access Plan as the appropriate response to meeting our clients' needs.

LEP refers to a person's limited ability to read, write, speak, or understand English. Individuals who are LEP are not a protected class under the Civil Rights Act of 1964. The Act nonetheless prohibits housing providers from using LEP selectively based on a protected class or as a pretext for discrimination because of a protected class. The Act also prohibits housing providers from using LEP in a way that causes an unjustified discriminatory effect.

## APPLICABILITY

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Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) and Executive Order 13166 require that recipients of federal funds take responsible steps to ensure meaningful access by persons with Limited English Proficiency (LEP persons).

The Fair Housing Act (or Act) prohibits discrimination in the sale, rental or financing of dwellings, and in other housing-related transactions, because of race, color, religion, sex, disability, familial status or national origin.

1. The guidance discusses how the Fair Housing Act applies to a housing provider's consideration of a person's limited ability to read, write, speak or understand English. Specifically, the guidance addresses how the disparate treatment and discriminatory effects methods of proof apply in Fair Housing Act cases in which a housing provider bases an adverse housing action – such as a refusal to rent or renew a lease – on an individual's limited ability to read, write, speak or understand English.
2. Because of the close nexus between limited English proficiency ("LEP") and national origin, the distinctions between intent and effects claims involving LEP and national origin are often subtle and can be difficult to discern.

Affirmatively Furthering Fair Housing (AFFH) is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. This obligation to affirmatively further fair housing has been in the Fair Housing Act since 1968 (for further information see Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608 and Executive Order 12892). HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster

inclusive communities that are free from discrimination. As provided in the rule, AFFH means "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development."

## DEFINITIONS

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1. **Direct "In-Language" Communication** – Monolingual communication in a language other than English between a multilingual staff and an LEP person (e.g., Korean to Korean).
2. **Component** – Individuals and other constituent administrations, departments, divisions, groups, and/or offices within the CoC.
3. **Effective Communication** – Communication sufficient to provide the LEP individual with substantially the same level of access to services, programs, and benefits received by individuals who are not LEP. For example, staff must take reasonable steps to ensure that communication with an LEP individual is as effective as communication with others when providing similar programs, benefits, and services.
4. **Interpretation** – The act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.
5. **Language Assistance Services** – Oral and written language services needed to assist LEP individuals to communicate effectively with staff, and to provide LEP individuals with meaningful access to, and an equal opportunity to participate fully in, the services, benefits, activities, or other programs administered by the Department.
6. **Limited English Proficient (LEP) Individuals** – Individuals who do not speak English as their primary language and have a limited ability to read, write, speak, and/or understand English. LEP individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing).<sup>1</sup>
7. **Meaningful Access** – Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual.<sup>2</sup> For LEP individuals,

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<sup>1</sup> The Department has determined that Executive Order 13166 applies only to persons who are located within the United States and its territories, and does not apply extraterritorially.

<sup>2</sup> When Federal rules or statutes allow for recovery of fees against a losing party to a court proceeding, it is the policy of DOT not to seek recovery of costs for language assistance services if doing so would result in discrimination against 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.

8. **Multilingual staff or employee** – A staff person or employee who has demonstrated proficiency in English and in reading, writing, speaking, or understanding at least one other language, as authorized by his or her component.
9. **Primary Language** – An individual’s primary language is the language in which an individual most effectively communicates.
10. **Program, Service, Benefit, or Activity** – The term “program,” “service,” “benefit,” or “activity” applies to the primary functions of all of the operations of the CoC.
11. **Qualified Translator or Interpreter** – An in-house or contracted translator or interpreter who demonstrates his/her competence to interpret or translate through court certification or is authorized to do so by contract with the CoC or by approval of his or her component.
12. **Sight Translation** – Oral rendering of written text into spoken language by an interpreter without change in meaning based on a visual review of the original text or document.
13. **Translation** – The replacement of a word, phrase, or text in one language (source language) with an equivalent-meaning word, phrase, or text in another language (target language).
14. **Vital Document** – Paper or electronic written material that contains information that is critical for accessing a component’s programs, services, benefits, or activities; directly and substantially related to public safety; or required by law.

Component language access plans may supplement these definitions with additional terms or definitions consistent with these definitions and with the objective of timely providing LEP persons with substantially equal and meaningfully effective access to CoC programs and activities.

## POLICY

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The Mississippi Balance of State Continuum of Care, hereto referred to as "BoS", and its agencies will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities, programs and other benefits. The policy of the BoS is to ensure meaningful communication with LEP clients and their authorized representatives involving their housing services. The policy also provides for communication of information contained in vital documents, including but not limited to, applications, consent to data entry forms, financial and benefit forms, etc. All interpreters, translators and other aids needed to comply with this policy shall be provided without cost to the person being served, and patients/clients and their families will be informed of the availability of such assistance free of charge.

Language assistance will be provided through use of competent bilingual staff, staff interpreters, contracts or formal arrangements with local organizations providing interpretation or translation services, or technology and telephonic interpretation services. All agencies will be provided

notice of this policy and procedure, and staff that may have direct contact with LEP individuals will be trained in effective communication techniques, including the effective use of an interpreter.

The BoS will conduct a regular review of the language access needs of the client population, as well as update and monitor the implementation of this policy and these procedures, as necessary.

## LIKELY POINTS OF CONTACT

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BoS has determined that persons with LEP are most likely to encounter Agency programs as follows:

- Persons seeking to access to housing or housing assistance in any program funded by or through BoS.
- Persons that visit any of BoS member agencies' offices to receive information regarding programs or other services.
- Persons seeking to participate in the planning process for BoS programs or services.

## PROCEDURES

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### 1. Identifying LEP Persons and Their Language

BoS Member Agencies will promptly identify the language and communication needs of the LEP person. If necessary, staff will use a language identification card (or "I speak cards," available online at [www.lep.gov](http://www.lep.gov)) or posters to determine the language. In addition, when records are kept of past interactions with clients/residents or family members, the language used to communicate with the LEP person will be included as part of the record.

#### a. Documentation

The primary language of each LEP individual shall be documented in HMIS and in a conspicuous location in the individual's record to alert staff that language assistance services must be provided. In addition, when records are kept of past interactions with clients or family members, the language used to communicate with the LEP person will be included as part of the record. Coordination between all CoC programs concerning language assistance needs will be handled through, but not limited to, telephone, email, or written communication.

#### b. "I Speak" Cards (available online at [www.lep.gov](http://www.lep.gov))

To serve as an aid to the LEP population, "I Speak" cards have been developed for Spanish and Vietnamese speaking clients and are available to all county offices and are also posted on the DFCS connection website. These cards may be used by clients to introduce themselves to county staff and indicate their need to have interpreter services. The cards provide the person's name and a reference to Federal regulations regarding language assistance. As LEP clients are served in county offices, workers should provide the cards to these clients for future use when requesting services.

## 2. Obtaining A Qualified Interpreter

**The BoS Member Agency responsible staff person(s)** is/are responsible for:

- a. Maintaining an accurate and current list showing the name, language, phone number and hours of availability of bilingual staff;
- b. Contacting the appropriate bilingual staff member to interpret, if an interpreter is needed, if an employee who speaks the needed language is available and is qualified to interpret;
- c. Obtaining an outside interpreter if a bilingual staff or staff interpreter is not available or does not speak the needed language.

Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual and **after** the LEP person has understood that an offer of an interpreter at no charge to the person has been made by the facility. Such an offer and the response will be documented in the person's file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, competent interpreter services will be provided to the LEP person.

Children and other clients/residents will **not** be used to interpret, to ensure confidentiality of information and accurate communication.

## 3. Providing Written Translations

- a. When translation of vital documents is needed, each member agency will submit documents for translation into frequently-encountered languages to the agency's responsible person. Original documents being submitted for translation will be in final, approved form with updated and accurate client information.
- b. Facilities will provide translation of other written materials, if needed, as well as written notice of the availability of translation, free of charge, for LEP individuals.
- c. The BoS will set benchmarks for translation of vital documents into additional languages over time.

## 4. Providing Notice to LEP Persons

The BoS member agency will inform LEP persons of the availability of language assistance, free of charge, by providing written notice in languages LEP persons will understand. At a minimum, notices and signs will be posted and provided in intake areas and other points of entry, including but not limited to the sitting area, case manager offices, etc. Notification will also be provided through one or more of the following: outreach documents, telephone voice mail menus, email signatures

community-based organizations and/or other applicable means of media and communication.

## **5. Monitoring Language Needs and Implementation**

On an ongoing basis, the BoS will assess changes in demographics, types of services or other needs that may require reevaluation of this policy and its procedures. In addition, member agencies will regularly assess the efficacy of these procedures, including but not limited to mechanisms for securing interpreter services, equipment used for the delivery of language assistance, complaints filed by LEP persons, feedback from patients and community organizations, etc.

The monitoring program shall include site visits to offices that shall either be randomly selected or shall target offices which produce a disproportionate number of complaints about the adequacy of language services. The site visits will determine whether language assistance services are provided to LEP persons when they visit MDHS-DFCS offices or contact an office by telephone.

These site visits shall include:

- a. Announced site visits conducted annually; and
- b. Review LEP individuals' case records to assess whether primary languages are properly recorded in all case records and whether such persons are provided adequate language assistance services;
- c. Assess agency staff and contractors' knowledge about BoS' language assistance policies and procedure;
- d. Review the accuracy of the list(s) containing the availability of bilingual staff, interpreter, and other resources;
- e. Request feedback from LEP individuals and advocates;
- f. Review the posting of signs in the offices;

On a CoC-wide basis, the monitoring plan shall include:

- g. Review complaints filed by LEP individuals to determine adequacy of language assistance services;
- h. Review the development and distribution of translated BoS documents.

## **6. Language Assistance Standards**

The BoS shall require that CoC and member agency staff interpreters and translators, bilingual/multilingual staff, interpreters from community organizations and contractors providing language assistance services, including interpretation and translation, are capable of competently performing their duties. Competency of language assistance service providers may be established by a variety of means including self-attestation of the interpreter after having reviewed the interpreter competency standards. Whether self-attestation or another means is used to establish competency, the BoS shall take

reasonable steps to ensure that the individuals providing the interpretation and translation can facilitate effective communication between LEP persons and the BoS/member agency.

The BoS shall require that all applicable sub-recipients and contractors/volunteers are informed of the LEP requirements. BoS member agency shall further ensure that contractors/volunteers who provide services directly to clients and applicants on behalf of BoS complete an individualized assessment corresponding to the requirements herein, including, but not limited to, the provision of language assistance services, training for staff, and complaint procedures. The CoC shall provide information to and oversee the applicable sub-recipients and contractors as necessary to monitor compliance with these requirements.

**Standards for interpreter competency shall include the following:**

- a. Communicate in both English and the LEP individual's primary language accurately and effectively;
- b. Interpret to and from English and the LEP individual's primary language accurately and impartially;
- c. Possess appropriate knowledge of specialized terms and concepts used frequently in the provision of the MDHS-DFCS' services and programs or possess willingness to ask for clarification, as needed, from any or all parties, about unfamiliar terms and concepts;
- d. Understand and follow the obligation to maintain confidentiality;
- e. Understand the roles of interpreters and the ethics associated with being an interpreter; and
- f. For those providing written translations, have the ability to translate written documents effectively.

**7. Prohibition Against Retaliation and Intimidation**

BoS member agencies shall not retaliate, intimidate, threaten, coerce, or discriminate against any person who has filed a complaint, assisted, or participated in any manner in the investigation of matters addressed in this policy.

**8. Notice of Non-Discrimination Policy**

The BoS prohibits discrimination and/or the exclusion of individuals from its facilities, programs, activities and services based on the individual person's race, national origin, color, creed, religion, sex, sexual orientation, age, disability, veteran status, or inability to speak English. A notice of the BoS non-discrimination policy will be posted in each CoC-funded agency office.

## COMPLAINTS

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Complainants may file a complaint with the BoS if it is believed you have been denied the benefits of this policy. Complaints will be investigated pursuant to BoS's Grievance procedures. To file a complaint with the BoS Executive Committee, submit the written complaint to:

**CoC Coordinator**  
**Mississippi Balance of State CoC**  
**201 W. Capitol Street, Suite 800**  
**Jackson, MS 39201**  
**601-960-0557**  
[rglenn@msbos.org](mailto:rglenn@msbos.org)

OR

Any person that feels that the Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) and Executive Order 13166 regulations were not complied with may file a complaint directly to the Assistant Secretary for Fair Housing and Equal Opportunity at the following address (or as otherwise directed by HUD):

**Assistant Secretary for Fair Housing and Equal Opportunity**  
**Department of Housing and Urban Development**  
**Regional Field Office**  
**40 Marietta Street**  
**Atlanta, GA 30303**

## LEP RESOURCES & COMPLIANCE INFORMATION

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Limited English Proficiency resources and compliance information including videos, language identification cards, Translation and Interpretation procurement services and frequently asked questions can be accessed at the following website: <https://www.lep.gov/>.