

HAYWOOD COUNTY HEALTH AND HUMAN SERVICES AGENCY

TITLE VI LANGUAGE ACCESS POLICY

Updated 8/22/18

Title: Title VI of the Civil Rights Act of 1964; Policy on the Prohibition Against National Origin Discrimination as it Affects Persons with Limited English Proficiency

Authority: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et.seq. Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d *et. seq.* states: “No person in the United States shall on the ground 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 financial assistance.”

Regulations implementing Title VI provide in part at 45 C.F.R. Section 80.3 (b):

“(1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on ground of race, or color, or national origin:

- (i) Deny an individual any service, financial aid, or other benefit provided under the program:
- (ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others in the program;

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program or the class of individuals to whom, or the situations in which such services, financial aid or other benefits, or facilities will be provided... *may not directly, or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination, because of their race, color or national origin, or have the effect of defeating or substantially impairing accomplishments of the objectives of the program with respect to individuals of a particular race, color, or national origin.*”

I. Purpose

The purpose of this Policy is to ensure compliance with Title VI of the Civil Rights Act of 1964, and other applicable federal and state laws and their implementing regulations with respect to persons with limited English proficiency (LEP). Title VI of the Civil Rights Act of 1964 prohibits discrimination based on the ground of race, color or national origin by any entity receiving federal financial assistance. Administrative methods or procedures, which have the effect of subjecting individuals to discrimination or defeating the objectives of these regulations, are prohibited.

In order to avoid discrimination on the grounds of national origin, all programs or activities administered by the Haywood County Health and Human Services Agency must take adequate steps to ensure that their policies and procedures do not deny or have the effect of denying LEP individuals with equal access to benefits and services for which such persons qualify. This Policy defines the responsibilities the agency has to ensure LEP individuals can communicate effectively.

II. Scope of Policy

These requirements will apply to the Haywood County Health and Human Services Agency (herein referred to as “the agency”) including subcontractors, vendors, and subrecipients.

The agency will ensure that LEP individuals are provided meaningful access to services provided through contractors or service providers receiving subgrants from the agency.

III. Definitions

- A. Limited English Proficient (LEP) individual – Any prospective, potential, or actual recipient of services from the agency who cannot speak, read, write or understand the English language at a level that permits them to interact effectively with health care providers and agency staff.
- B. Vital Documents – These forms include, but are not limited to, applications, consent forms, letters containing important information regarding participation in a program; notices pertaining to the reduction, denial, or termination of services or benefits, the right to appeal such actions, or that require a response from beneficiary, notices advising LEP persons of the availability of free language assistance, and other outreach materials.
- C. Title VI Compliance Officer: The person or persons responsible for compliance with the Title VI LEP policies.
- D. Substantial number of LEP: 5% or 1,000 people, whichever is smaller, are potential applicants or recipients of the agency and speak a primary language other than English and have limited English proficiency.

IV. Providing Notice to LEP Individuals

- A. The agency will take appropriate steps to inform all applicants, recipients, community organizations, and other interested persons, including those whose primary language is other than English, of the provisions of this policy. Such notification will also identify the name, office telephone number, and office address of the Title VI compliance officer(s).
 - 1. Title VI Compliance Officer for Haywood County Health & Human Services Agency:
Gayla Jones
157 Paragon Parkway, Clyde, NC 28721
Phone #828-452-6620
(Note: the agency will notify the DHHS compliance attorney of changes in name or contact information for the Title VI compliance officer.)
- B. The agency will post and maintain signs in regularly encountered languages other than English in waiting rooms, reception areas and other initial points of contact. These signs will inform applicants and beneficiaries of their right to free language assistance services and invite them to identify themselves as persons needing such services. Signs will be posted in the agency’s lobby reception areas that inform patients, applicants, clients and beneficiaries of their right to free language assistance services and inviting them to identify themselves as persons needing such services.
- C. The agency will include statements of the right to free language assistance in Spanish and other significant languages in all outreach material that is routinely disseminated to the public (including electronic text).

- D. The agency will also disseminate information concerning this policy in the following manner. This policy will be:
1. Distributed to all community organizations and especially to those that interact with LEP individuals;
 2. Posted on the agency's page of Haywood County's website; and
 3. Available to any client upon request.

V. Provision of Services to LEP Clients

A. Assessing Linguistic Needs of Potential Clients

1. The agency will assess the language needs of the population to be served, by identifying:
 - a. the language needs of each LEP client;
 - b. the points of contact where language assistance is needed;
 - c. The resources needed to provide effective language assistance, including location, availability and arrangements necessary for timely use.
2. Determining the Language Needs of the Population to be served: The agency is responsible for assessing the needs of the population to be served. Such assessment will include, but not be limited to the following:
 - a. The non-English languages that are likely to be encountered in its program will be identified. An estimate of the number of people in the community for whom English is not the primary language used for communication will be completed and updated annually. To identify the languages and number of LEP individuals local entities should review: census data, school system reports, data from federal, state, and local governments, community agencies' information, and data from client files
 - b. The points of contact in the agency programs where language assistance is likely to be needed will be identified.
3. Determining the Language Needs of Each Client: The agency determines the language needs of each client. Such assessment will include, but not be limited to the following:
 - a. At the first point of contact, each client will be assessed to determine the individual's primary language by using:
 - i. Multi-language identification cards, a poster-size language list, or the use of "I speak" peel-off language identification cards for indicating preferred languages;
 - ii. English proficiency assessment tools, provided they can be administered in a manner that is sensitive to and respectful of individual dignity and privacy;
 - iii. Employee asks if interpreter services are needed, either on site or Language Line, depending upon availability; or
 - iv. Other methods deemed appropriate.
 - b. If the LEP person does not speak or read any of these languages, the agency will use a telephone interpreting service to identify the client's primary language
 - c. Staff will not solely rely on their own assessment of the client's English proficiency in determining the need for an interpreter. If an individual requests an interpreter, an interpreter will be provided free of charge. A declaration of the client will be used to establish the client's primary language.
 - d. When staff place or receive a telephone call and cannot determine what language the other person on the line is speaking, a telephone interpreting service will be utilized in making the determination.

- e. If any client is assessed as LEP, they will be informed of interpreter availability and their right to have a language interpreter at no cost to them with a notice in writing in the languages identified in Section C. Provisions of Written Translations.
- f. The Agency responds promptly to encounters with LEP individuals in each of the following instances:
 - i. Intake interview; provides an interpreter either in person or through the use of a telephone interpreting service.
 - ii. Office visits; provides an interpreter either in person or through the use of a telephone interpreting services.
 - iii. Service plan development; provides an interpreter either in person or through the use of a telephone interpreting services.
 - iv. Home visits (announced and unannounced); provides an interpreter either in person or through the use of a telephone interpreting service.
 - v. Conferences; provides an interpreter either in person or through the use of a telephone interpreting service.
 - vi. Complaints from members of the public; provides an interpreter either in person or through the use of a telephone interpreting services.
 - vii. Providing other case-related information; provides an interpreter either in person or through the use of a telephone interpreting service.
 - viii. Emergency and non-emergency telephone calls. Provides an interpreter either in person or through the use of a telephone interpreting service.

B. Provision of Bilingual/Interpretive Services

- 1. The agency will ensure that effective bilingual/interpretive services are provided to serve the needs of the non-English speaking population. The provision of bilingual/interpretive services will be prompt without undue delays. In most circumstances, this requires language services to be available during all operating hours. This requirement is met by:
 - a. Spanish Interpreter Staff and/or bilingual staff. Currently there are:
 - i. (1) Spanish Interpreter staff members in the Public Health Division;
 - ii. (4) bilingual staff members in the Public Health Division;
 - iii. (1) Bi-lingual front desk receptionist in Social Work/Economic Services;
 - iv. Language Line
 - v. Contract with Spanish-speaking person
 - vi. Volunteers
 - vii. For other languages the agency will use the telephone interpreter services.
- 2. The agency will provide language assistance at all level of interaction with LEP individuals, including telephone interactions. The agency will use qualified interpreter staff members, qualified bilingual employees, and qualified employees of other agencies of community resources. Telephone interpreter services are also utilized.
- 3. Interpreter Standards
 - a. Those providing bilingual/interpretive services will meet the linguistic and cultural competency standards set forth below. The agency will ensure that interpreters and self-identified bilingual staff are screened to ensure that the following standards are met before being used for interpreter services:
 - i. Can fluently and effectively communicate in both English and the primary language of the LEP individual
 - ii. Can accurately and impartially interpret to and from such languages and English

- iii. Has a basic knowledge of specialized terms and concepts used frequently in the provision of the agency's services
 - iv. Demonstrates cultural competency
 - v. Understands the obligation to maintain confidentiality
 - vi. Understands the roles of interpreters and the ethics associated with being an interpreter
 - The agency's senior Spanish interpreter will assess each interpreter's competency and report to the Compliance Officer. Only those interpreters and bilingual staff who meet the competency requirement will provide interpreter services.
 - When staff members have reason to believe that an interpreter is not qualified or properly trained to serve as an interpreter, the staff member must request another interpreter.
 - b. Those providing bilingual/interpretive services may meet the linguistic and cultural competency standards by completing agency-approved training through MAHEC or other approved agencies with approval from the HHS and Business Services Directors.
4. Using Family Members or Friends as Interpreters
- a. Clients may provide their own interpreter; however the agency will not require them to do so.
 - b. The agency will first inform an LEP person, in the primary language of the LEP person, of the right to free interpreter services and the potential problems for ineffective communication. If the LEP person declines such services and requests the use of a family member or friend, the agency may utilize the family member or friend to interpret only if the use of such person would not compromise the effectiveness of services or violate the LEP person's confidentiality. The agency will monitor these interactions and again offer interpreter services, if it appears there are problems with this arrangement.
 - c. The agency will indicate in the LEP individual's file that an offer of interpreter services was made and rejected; that the individual was informed of potential problems associated with using friends or family members and the name of the person serving as an interpreter at the LEP individual's request.
 - d. Only under extenuating circumstances shall the agency allow a minor (under the age of 18 years) to temporarily act as an interpreter. The agency will keep a written record of when it has used a minor as an interpreter, and this information will be shared with the DHHS upon request.
5. The agency cannot require the client/applicant/recipient to pay for bilingual interpretive services.
6. Use of Interpreter at Hearings (Social Services Division)
- a. An interpreter is provided for all hearings if a party requests an interpreter or if the Hearing Officer determines that an interpreter is necessary.
 - b. A separate oath or affirmation to translate accurately is administered to all interpreters.
- C. Provision of Written Translations
- 1. The agency must provide written materials in languages other than English where a substantial number or percentage of the population eligible to be served or likely to be directly affected by the program needs services or information in a language other than English to communicate effectively.

2. Translation of Vital Documents
 - a. The agency will ensure that vital documents for locally designed programs are translated into Spanish.
 - b. When state DHHS forms and other written material contain spaces in which the local entity is to insert information, this inserted information will also be in the individual's primary language. When such forms are completed by applicants/recipients in their primary language, the information must be accepted.
 - c. If, as a result of the local language assessment, it appears there are a substantial number of potential applicants or recipients of the agency (defined as 5% or 1,000 people whichever is less) who are LEP and speak a language other than Spanish, the agency will translate and provide vital documents in the appropriate language.
 - d. The agency will keep a record of all vital documents translated, and will submit this information to DHHS at their request.
 3. If the primary language of an LEP client is a language other than Spanish AND the language does not meet the threshold for translation as defined in the preceding paragraph, the LEP individual will be informed in their own language of the right to oral translation of written notices. The notification will include, in the primary language of the client, the following language: **IMPORTANT: IF YOU NEED HELP IN READING THIS, ASK THE AGENCY FOR AN INTERPRETER TO HELP. AN INTERPRETER IS AVAILABLE FREE OF CHARGE.**
- D. Documentation of Client/Applicant/Recipient Case Records
1. The agency will maintain case record documentation in sufficient detail to permit a reviewer to determine the agency's compliance with this policy.
 2. The agency will ensure that case record documentation, including computerized records if appropriate, identifies the client's ethnic origin and primary language. In those cases where the client is non-English speaking, the agency will:
 - a. Document the individual's acceptance or refusal of forms or other written materials offered in the individual's primary language.
 - b. Document the method used to provide bilingual services, e.g., assigned worker is bilingual, other bilingual employee acted as interpreter, volunteer interpreter was used, or client provided interpreter. When a minor is used as interpreter, the agency will document the circumstances requiring temporary use of a minor and will provide this information to NC DHHS upon request.
 3. Consent for the release of information will be obtained from the client when individuals other than agency employees are used as interpreters and the case record will be so documented.
- E. Staff Development and Training
1. The agency will provide staff training at new employee orientation and continuing training programs. The training will include, but not be limited to:
 - a. Language assistance policies and procedures, resources available to support such procedures, methods of effective use of interpreters, and familiarization with the discrimination complaint process.
 - b. Cultural awareness information, including specific cultural characteristics of the groups served by the agency to provide a better understanding of, and sensitivity to, the various cultural groups to ensure equal delivery of services.
 2. The agency will provide or ensure training is provided for bilingual staff and interpreters employed or utilized by the agency. This includes the ethics of interpreting, including confidentiality; methods of interpreting; orientation to the organization; specialized terminology used by the agency; and cultural competency.

3. The agency will ensure that applicable grantees, contractors, cooperative agreement recipients and other entities receiving state or federal dollars are trained in the requirements of this policy. Contracts and letter of agreement will have specific language concerning the agency's LEP policy and the contractor must agree to this policy or provide the agency of copy of their Title VI policy.
4. The agency will collect and maintain the following information about training provided to staff: the date(s) of such training, the content of such training, the number and types of credit hours awarded; and the names and identifying information of each attendee at the training. The agency will ensure that grantees, contractors, cooperative agreement recipients and other applicable funded entities collect and maintain such information as well.

VI. Compliance Procedures, Reporting and Monitoring

- A. (DSS) The Agency will ensure effective communications for LEP clients throughout the agency and recipients of federal funds through self-evaluation, modification of services and training. Every recipient of funds shall sign a compliance agreement with the agency assuring that it is in compliance with agency policy.
- B. Reporting
 1. (DSS) An annual compliance report shall be completed by each Division/Institution of the Department and sent to the appropriate division/Institution within the Department. Local entities shall complete annual reports and send it to the appropriate agency within the Department. If compliance is not met during the year or in accordance with the compliance agreements, notification shall be sent to the Office of General counsel to the attention of the compliance attorney.
 2. (HEALTH) The agency will complete an annual compliance report and send this report to the appropriate agency within the Department of Health and Human Services. (Format will be supplied by DHHS)
- C. Monitoring
 1. (DSS) Self-monitoring will be done on a quarterly basis by the Agency and local entities. These reports will be maintained and stored in the appropriate Division/institution Director's office in the appropriate office of the local entities and shall be accessible by the Department. A standard reporting system will be used in the Department and approved in the compliance agreements with local entities. If reports are not completed in accordance with compliance agreements, notification shall be sent to the Agency's Office of General counsel.
 2. On occasion, special reviews by the Department may be necessary. These reviews are initiated when the following occurs:
 - a. There is a need to follow up on a noncompliance finding from the annual report requiring additional information and a more in-depth examination of specific aspects of the program and activities.
 - b. Outside sources such as advocacy groups, legal service organizations or the Office for Civil Rights (U.S. Department of health and Human Services, Region IV) that supply information that a review is necessary.
 - c. The Secretary of the Department may request a review at his or her discretion.
 - d. The Office of General Counsel may initiate a review at their discretion.
 - e. (HEALTH) The agency will complete a self-monitoring report on a quarterly basis, using a standardized reporting system provided by the Department. These reports

will be maintained and stored by the Title VI compliance officer and will be provided to the Department upon request.

3. (DSS) Upon notification of noncompliance or a compliance review, the Office of General Counsel will organize a group of not more than four individuals to review the issue of noncompliance. The team will consist of the Office of General Counsel's compliance attorney, a Division/Institution representative, a representative from the Office of Minority Health and Health Disparities and one ad hoc individual, with the approval of the Secretary.
4. (HEALTH) The agency will cooperate, when requested, with special review by the Department.

VII. Client/Applicant/Recipient Complaints of Discriminatory Treatment

This section provides for the prompt and equitable resolution of complaints against any program or activity administered by the Department of Health and Human Services which receives federal financial assistance in violation of Title VI of the Civil Rights Act of 1964.

A. Complaints

1. (DSS) All complaints alleging discrimination on the basis of race, color, national origin, age, sex, or disability, either written or verbal, must be processed within the time frames established by USDA and US DHHS regulations and agreements. USDA also prohibits discrimination on the basis of religion or political beliefs.
2. Depending on where the complaint was initially filed, it must be forwarded to the appropriate Office (USDA-FNS or US DHHS Headquarters, Regional, State, or local agency) for a determination on how the complaint will be handled. The appropriate Office will prepare and issue letters of acknowledgements to the complainants.
3. Right to File: Any person or representative alleging discrimination based on a prohibited basis has the right to file a complaint within 180 days of the alleged discriminatory action. The complainant must be advised of confidentiality and Privacy Act applications. The complainant and the entity that the complaint is filed against will be encouraged to resolve the issue at the lowest possible level and as expeditiously as possible. Any person who does not speak or write in English shall be provided assistance in their primary language.
4. Acceptance: All complaints, written or verbal must be forwarded to the appropriate Office. Anonymous complaints will be handled as any other complaints, to the extent feasible, based on available information.
5. Verbal Complaints: In the event a complainant makes the allegations verbally or in person and refuses or is not inclined to place such allegations in writing, the person to whom the allegations are made must write up the elements of the complaint for the complainant. Every effort should be made to have the complainant provide the following information:
 - a. Name, address, and telephone number or other means of contacting the complainant,
 - b. The specific location and name of the State agency, local agency, or other sub recipient delivering the service or benefit;
 - c. The nature of the incident or action that led the complainant to feel that discrimination was a factor, and an example of the method of administration that is

- having a disparate effect on the public, potential eligible persons, applicants, or participants;
- d. The basis on which the complainant believes discrimination exists. The bases for nondiscrimination are race, color, national origin, age, disability, or sex. USDA-FNS also prohibits discrimination on the basis of religion and political beliefs;
 - e. The names, telephone numbers, titles, and business or personal addresses of persons who may have knowledge of the alleged discriminatory action, and;
 - f. The date(s) during which the alleged discriminatory actions occurred or, if continuing, the duration of such actions.
6. Complaints are immediately logged into a separate access database or computerized tracking system for easy identification.
 7. (HEALTH)The agency will provide assistance to LEP individuals who do not speak or write in English if they indicate that they would like to file a complaint. A complaint will be filed in writing, contain the name and address of the person filing it or his/her designee and briefly describe the alleged violation of this policy.
 8. The agency will maintain records of any complaints filed, the date of filing, actions taken and resolution.
 9. The agency will notify the appropriate agency or Division within DHHS of complaints filed, the date of filing, actions taken and resolution. This information will be provided within 30 days of resolution.

B. Investigation

1. (DSS) A designee of the Division, Agency Director, or an appropriate individual shall conduct an investigation of the allegations of the complaint. The investigation shall afford all interested persons and their representatives, if any, an opportunity to submit evidence relevant to the complaint.
2. Designee of the Division Director, Agency Director or an appropriate individual shall provide information at the program delivery site advising program applicants/participations of the option to file a complaint with USDA-FNS or US DHHS, or the State agency.
3. Designee of the Division Director, Agency Director or an appropriate individual shall refer all age discrimination complaints to USDA0-FNS Regional OCR if the complaints are Food and Nutrition Services age discrimination complaints.
4. Designee of the Division Director, Agency Director, or an appropriate individual shall gather facts that will either support or refute the complainant's allegation(s), ensuring that all relevant sources of information are investigated.
5. Designee of the Division Director, Agency Director or an appropriate individual shall review and evaluate the facts gathered.
6. An investigation shall be conducted on all complaints that establish a prima facie case of discrimination. The elements of a prima facie case may vary depending on the facts of the complaint, but such elements of include the following:
 - a. The complainant is a member of a protected class;
 - b. The complainant is qualified and eligible for a benefit or a program that receives Federal financial assistance from USDA or US DHHS;
 - c. The complainant's access to or participation in a USDA or US DHHS federally funded program was harmed by the recipient's action or failure to act, and
 - d. There is some evidence of recipient's actions or failure to act from which, if otherwise unexplained, an inference of discrimination can be drawn.
 - e. (HEALTH) The Title VI compliance officer will conduct an investigation of the allegations of the complaint. The investigation will afford all interested persons

and their representatives, if any, an opportunity to submit evidence relevant to the complaint.

7. The investigation will not exceed 30 days, absent a 15-day extension for extenuating circumstances.

C. Resolution of Matters

1. (DSS) Designee of the Division/Institution Director, Agency Director or an appropriate individual shall write decision letters informing the complainant of closure or follow up action. Include the complainant's right to appeal to the USDA-FNS if the complaint is from Food and Nutrition Services.
2. Designee of the Division/Institution Director, Agency Director or an appropriate individual shall implement corrective action, when necessary.
3. Designee of the Division/Institution Director, Agency Director or an appropriate individual shall submit a report to the USDA-FNS on each complaint processed, prior to issuing a decision letter to the complainant for the purpose of oversight and concurrence, if the complaint is from Food and Nutrition Services.
4. The Agency shall prepare a written report of the investigation that includes the findings of the investigation with relation to the specific allegations of the complaint and a summary of all interviews with the complainant, participants, and community organization and case file examinations. If an investigation is not conducted, the State agency shall provide an explanation in its report to the USDA-FNS or US DHHS.
5. All complaints, regardless of the originating office, shall be processed and closed within 90 days of receipt. A decision letter shall be sent to the complainant that contains: The name of the complainant, a review number, the date the complaint was received, a statement of the jurisdictional authority, a statement of each allegation and applicable regulation, if an investigation is warranted, the methodology on how the complaint was investigated, and the conclusions. All decision letters to complainants will include their appeal rights to USDA or US DHHS.
6. (HEALTH) If the investigation indicates a failure to comply with the Act, the agency Director or his/her designee will so inform the recipient and the matter will be resolved by informal means whenever possible within 60 days.
7. If the matter cannot be resolved by informal means, then the individual will be informed of his or her right to appeal further to the Office of General Counsel within DHHS. This notice will be provided in the primary language of the individual with Limited English Proficiency.
8. If not resolved by DHHS, then complaint will be forwarded to OCR, USDHHS, and Region IV.

Submitted



Haywood County Health and Human Services Director

Date: 6-13-19