

U.S. Department of Health and Human Services  
**OFFICE FOR CIVIL RIGHTS**  
Civil Rights & Language Assistance Services  
Know Your Responsibilities

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**Office for Civil Rights (OCR)**  
**U.S. Department of Health and Human Services (HHS)**  
Who We Are and What We Do

- OCR is the Department's civil rights, conscience and religious freedom, and health privacy rights law enforcement agency
- To ensure understanding of and compliance with non-discrimination and health privacy laws, OCR:
  - Investigates complaints
  - Enforces rights
  - Promulgates regulations
  - Develops policy
  - Provides technical assistance and public education

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**Federal Enforcement**

- OCR enforces Federal civil rights laws as to programs that receive funding from HHS.
- OCR is a fact-finding agency that receives, investigates and resolves thousands of complaints from the public alleging discrimination in health and human services.
- When OCR finds a violation, a covered entity will be required to take corrective actions, which may include revising policies and procedures and implementing training and monitoring programs.
- When a covered entity fails to take corrective actions, OCR may undertake proceedings to suspend or terminate Federal financial assistance from HHS. OCR may also refer the matter to the U.S. Department of Justice for possible enforcement proceedings.

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### Who Must Comply?

All recipients of HHS Federal financial assistance (FFA), either directly or indirectly, through a grant, contract or subcontract.

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### What Qualifies As FFA?

The following are recipients of federal financial assistance from HHS:

- Health care providers participating in CHIP and Medicaid programs
- Hospitals and nursing homes (recipients under Medicare Part A)
- Medicare Advantage Plans (e.g., HMOs and PPOs) (recipients under Medicare Part C)
- Prescription Drug Plan sponsors and Medicare Advantage Drug Plans (recipients under Medicare Part D)
- Human or social service agencies
- Insurers who are participating in the Marketplaces and receiving premium tax credits.

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### Jurisdiction and Authority

#### Program Jurisdiction

HHS/OCR has jurisdiction over providers of health and human service benefits such as:

- State agencies
- Medical schools & other health care programs
- Welfare programs
- Hospitals
- Nursing homes
- Substance abuse treatment centers
- Day care centers
- Medicaid Health Mgt. Organizations (HMOs)
- Child service agencies
- Outpatient rehabilitation clinics
- Public health clinics
- Rural health agencies
- Adult day activity programs
- Home health agencies and hospices
- Area agencies on aging

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Language Assistance Services  
for Limited English Proficient  
(LEP) Individuals

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The Law

- Title VI of the Civil Rights Act of 1964 (Title VI) prohibits discrimination on the basis of race, color, or national origin in all programs assisted by Federal money.
- Section 1557 of the Affordable Care Act prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs or activities.

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Practices Prohibited on the Basis of  
Race, Color, or National Origin

- Deny an individual a service, aid or other benefit
- Provide a benefit, etc. which is different or provided in a different manner
- Subject an individual to segregation or separate treatment
- Restrict an individual in the enjoyment of benefits, privileges, etc.
- Treat an individual differently in determining eligibility
- Deny a person the opportunity to participate on a planning board

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### Practices Prohibited on the Basis of Race, Color, or National Origin (Cont'd.)

- o Use any criteria or methods of administration
  - that have the effect of subjecting individuals to discrimination or have the effect of defeating or substantially impairing accomplishment of a program's objective(s)
  - with respect to persons of a particular race, color, or national origin
- o Select sites or locations of facilities that will exclude individuals on the basis of race, color, or national origin

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### Who Is a Limited English Proficient (LEP) Person?

An LEP individual is a person

- o who does not speak English as his or her primary language; and
- o who has a limited ability to read, write, speak or understand English.

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### The Connection National Origin & Limited English Proficiency

How do the protections against national origin discrimination apply to limited English proficient (LEP) individuals?

The failure of a covered entity to provide language assistance services to LEP individuals may constitute national origin discrimination.

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U.S. Supreme Court

*Lau v. Nichols*, 414 U.S. 563 (1974) held that Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national origin discrimination.

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Community Impact and Language Access

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Improving Language Access Matters

- Over 25 million persons are limited English proficient (LEP)
- Over 58 million people speak a language other than English at home
  - 8 million increase since 2000
  - 19.7% of the population
- Over 80% of hospitals, general internists, and Federally qualified health clinics treat LEP patients frequently

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### Lack of Meaningful Access Impacts Health Outcomes

Consequences for LEP Individuals:

- Denial of needed benefits
- Delay in delivery
- Wrong benefits or services
- Ineffective or less effective services

Consequences for Health Care Providers:

- Inferior Quality
- Potential Liability
- Increased Costs and Inefficiencies

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### OCR Enforcement Actions Resurrection Health Care (RHC)

- Complainant alleged that RHC, a group of six Chicago hospitals with 2000 beds, failed to provide language assistance services to Spanish and Polish speaking patients in violation of Title VI
- Complaint voluntarily resolved in March 2012
- Robust corrective action for RHC:
  - Created and appointed a language assistance coordinator
  - Implemented a revised language assistance policy
  - Trained 37 employees to become proficient in medical interpretation
  - Contracted with an interpreter registry for medical interpretation back-up capability
  - Established comprehensive staff training program (including language assessment and how to obtain emergency interpreters)
  - Certified its ability to translate vital documents with viaLanguage, Care Notes, and i-Med software

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### OCR Enforcement Actions Maryvale Hospital

- With funding from HRSA, Maryvale Hospital, a 226 bed facility in Phoenix, opened a Family Education Center in September 2011
- Complaint alleged that Hospital failed to provide LEP individuals with meaningful access to ER services, in violation of Title VI
- To resolve the complaint, Hospital voluntarily agreed to:
  - Post signs (in various languages) regarding the availability of interpreters, free of charge
  - Contract with an in-person interpreter service with 100+ qualified interpreters and translators in 60 languages
  - Contract with a language line that can provide telephone/video interpretation in many languages, including Spanish and ASL
  - Train staff members to access language assistance services

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**Looking Ahead to Session 2**

- Language Access Plans/Language Assistance Services
- Interpreter Competency and Timeliness
- Reliance on Friends and Family (Children)

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**Resources Are Available**

- DOJ Language Access Assessment and Planning Tool [http://www.lep.gov/resources/2011\\_Language\\_Assessment\\_Assessment\\_and\\_Planning\\_Tool.pdf](http://www.lep.gov/resources/2011_Language_Assessment_Assessment_and_Planning_Tool.pdf)
- Federal Interagency Working Group on LEP <http://www.lep.gov>
- HHS Office for Civil Rights for information, cases and tools <http://www.hhs.gov/ocr/>
- LEP rights brochure [http://www.lep.gov/resources/lep\\_aug2005.pdf](http://www.lep.gov/resources/lep_aug2005.pdf)
- Top tips from responses to 2006 language access survey of federal agencies [http://www.lep.gov/resources/2008\\_Conference\\_Materials/TopTips.pdf](http://www.lep.gov/resources/2008_Conference_Materials/TopTips.pdf)
- 2006 Language Access Survey [http://www.lep.gov/resources/2008\\_Conference\\_Materials/FedLangAccessSurvey.pdf](http://www.lep.gov/resources/2008_Conference_Materials/FedLangAccessSurvey.pdf)
- I Speak Language Identification flashcards <http://www.lep.gov/ISpeakCards2004.pdf>
- GSA Language Services Schedule <https://www.gsa.gov/portal/content/245623>
- Attorney General's Memorandum [http://www.justice.gov/crt/about/crt/AG\\_021711\\_ED\\_13166\\_Memo\\_to\\_Agencies\\_with\\_Supplement.pdf](http://www.justice.gov/crt/about/crt/AG_021711_ED_13166_Memo_to_Agencies_with_Supplement.pdf)
- Executive Order 13166 <https://www.justice.gov/crt/executive-order-13166>
- DOJ LEP Guidance [https://www.lep.gov/guidance/guidance\\_DOJ\\_Guidance.html](https://www.lep.gov/guidance/guidance_DOJ_Guidance.html)

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**Resources**

- <http://www.hhs.gov/ocr>
- For assistance from OCR in other languages, please visit: <https://www.hhs.gov/ocr/get-help-in-other-languages/index.html>
- Join us on Twitter @hhsocr

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## Contact Information

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## Questions?

U.S. DEPARTMENT OF HEALTH AND HUMAN  
SERVICES  
OFFICE FOR CIVIL RIGHTS

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