

INTERPRETERS, TRANSLATORS & AUXILIARY AIDS



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OVERVIEW

- Interpreters and Translators
 - Limited English Proficiency (LEP).
 - Individuals with disabilities.

- Service animals.



WHY IT MATTERS

- Cannot provide proper care without effective communication.
 - Inability to obtain / communicate information necessary to provide effective care.
 - Lack of informed consent for care.
 - Provider liability for resulting injuries.
- Compliance.
 - Licensing and ethical standards.
 - Accreditation standards.
 - **Nondiscrimination laws.**

NONDISCRIMINATION LAWS

- Section 1557 of the Affordable Care Act (“ACA”)
42 USC §18116, 45 CFR part 92
- Title VI of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973
29 USC §701; 45 CFR 84.3
- Title II and III of the Americans with Disabilities Act of 1990
42 USC §12101; 28 CFR parts 35 and 36
- Idaho Human Rights Act
I.C. § 67-5901

PENALTIES FOR VIOLATIONS

- OCR investigation
 - Settlement agreement
- DOJ action
 - Settlement agreement
 - Injunction
 - Penalty
- Civil lawsuit by injured persons
- Loss of federal financial assistance
- Termination of provider agreement

NONDISCRIMINATION LAWS

- Nondiscrimination laws generally apply to:

Any entity that receives federal financial assistance from HHS, including:

- Medicare Parts A, C and D; Medicaid; grants; loans; subsidies; etc.
- Not Medicare Part B

Physicians, hospitals, nursing facilities, clinics, medical practices, etc.

- Any health program administered by HHS.
- Places of public accommodation.



GENERAL REQUIREMENTS

- Covered entities with 15+ employees must
 - Appoint a compliance coordinator.
 - Establish a grievance procedure.
- Post notices of nondiscrimination.
- Include taglines and statements of nondiscrimination.
- Not discriminate on basis of race, color, national origin, sex, age or disability.
 - Provide language assistance (e.g., interpreters and translations) to persons with limited English proficiency.
 - Provide auxiliary aids to those with disabilities.
 - Make newly constructed or altered facilities accessible to those with disabilities.

45 CFR part 92; 28 CFR part 35

GENERAL REQUIREMENTS

COMPLIANCE COORDINATOR & GRIEVANCE PROCEDURE

Covered entities with 15+ employees must:



Designate at least one employee to

- Coordinate compliance with rules.
- Investigate grievances.

Adopt a written grievance procedure with

- Due process standards.
- Prompt and equitable resolution of grievances.
- issue written decision within 30 days.
- Prohibition on retaliation against complainant.
- Provide language assistance or auxiliary aids to help with grievance.
- Complainant may file complaint directly with OCR.



GENERAL REQUIREMENTS

NOTICE & STATEMENT

**IMPORTANT
NOTICE**

Notice Type	Content	Publication
Notice of Nondiscrimination	<ul style="list-style-type: none">• Seven elements in English• Taglines in top 15 languages	<ul style="list-style-type: none">• Public locations• Website• Significant publications or communications
Statement of Nondiscrimination	<ul style="list-style-type: none">• Short statement in English• Taglines in top 2 languages	<ul style="list-style-type: none">• Small-sized publications (e.g., postcards, pamphlets, tri-fold brochures)

GENERAL REQUIREMENTS

NOTICE OF NONDISCRIMINATION

- Post in public locations, website, and on significant publications.
- Include the following information, in English:
 1. Covered entity does not discriminate based on race, color, national origin, sex, age, or disability.
 2. Covered entity provides auxiliary aids to persons with disabilities free of charge and in timely manner.
 3. Covered entity provides language assistance (e.g., interpreters and translations) free of charge and in timely manner.
 4. How to obtain aids and services.
 5. Contact info for compliance coordinator.
 6. How to file grievance.
 7. How to file complaint with OCR.
- Must be accompanied by Taglines in top 15 languages of the state.

45 CFR 92.8

GENERAL REQUIREMENTS

STATEMENT OF NONDISCRIMINATION

- Must include short statement on small-sized publications (e.g., postcards, tri-fold brochures) affirming nondiscrimination.

“[Covered entity] does not discriminate on the basis of race, color, national origin, sex, age, or disability in its health programs and activities.”

- Written in English.
- Must be accompanied by Taglines in top 2 non-English languages.

45 CFR 92.8

GENERAL REQUIREMENTS

TAGLINES

- “Taglines” are short statements written in non-English informing person that language assistance services are available free of charge.

“ATTENTION: If you speak [insert language], language assistance services are available to you free of charge. Call 1-xxx-xxx-xxxx (TTY: 1-xxx-xxx-xxxx).”

45 CFR 92.8(d), (f), and (g)

GENERAL REQUIREMENTS

TAGLINES

Top 15 Languages in Idaho according to HHS

1	ID	Spanish	47,041
2	ID	Chinese	1,798
3	ID	Serbo-Croatian*	815
4	ID	Korean	767
5	ID	Nepali*	715
6	ID	Vietnamese	630
7	ID	Arabic	628
8	ID	German	588
9	ID	Tagalog	562
10	ID	Russian	481
11	ID	French	449
12	ID	Japanese	395
13	ID	Romanian*	315
14	ID	Bantu*	305
15	ID	Persian (Farsi)	296

GENERAL REQUIREMENTS

HHS RESOURCES



HHS > [Civil Rights Home](#) > [For Individuals](#) > [Section 1557](#) > Translated Resources for Covered Entities

Civil Rights for Individuals and Advocates	—
Race, Color, National Origin	
Disability	
Age Discrimination	
Sex Discrimination & Harassment	
Title IX	
Section 1557	
Hill-Burton	
Section 1553	
Special Topics	
Civil Rights and Opioids	
HIPAA and FTC Act	
Civil Rights FAQs	
Fact Sheets	

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Translated Resources for Covered Entities

Translated Resources for Covered Entities

Under Section 1557 of the Affordable Care Act (ACA), covered entities are required to post notices of nondiscrimination and taglines that alert individuals with limited English proficiency (LEP) to the availability of language assistance services. The translated resources below are available for use by covered entities.

Sample Resources in English

[Notice of Nondiscrimination - PDF](#) | [.docx](#)

[Statement of Nondiscrimination - PDF](#) | [.docx](#)

[Tagline - PDF](#) | [.docx](#)

Español (Spanish)	繁體中文 (Chinese)
Notice of Nondiscrimination - PDF .docx	Notice of Nondiscrimination - PDF .docx
Statement of Nondiscrimination - PDF .docx	Statement of Nondiscrimination - PDF .docx
Tagline - PDF .docx	Tagline - PDF .docx

hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/index.html

LIMITED ENGLISH PROFICIENCY



LIMITED ENGLISH PROFICIENCY

- Must take “**reasonable steps**” to ensure meaningful access to persons with limited English proficiency (“LEP”).
 - Provide qualified interpreters.
 - Translations of key documents.

45 CFR 90.201
Title VI Executive Order 13166 (8/00)
HHS Guidance (8/03)

LIMITED ENGLISH PROFICIENCY

DETERMINING “REASONABLE”

Title VI	ACA
Number or proportion of LEPs likely to be encountered by provider.	Importance of communication.
Frequency of contact with LEPs.	Length, complexity, and context of communication.
Nature and importance of services to LEPs.	Prevalence of LEPs.
Cost and resources available to provider.	Frequency of LEP encounters.
	LEP’s preferences.
	Cost and whether provider availed itself of cost savings.
	Available resources.

LIMITED ENGLISH PROFICIENCY

INTERPRETERS

- Must offer qualified interpreter to LEP individual if it is a reasonable step to providing meaningful access.
 - “Qualified interpreter” includes someone who
 - Adheres to generally accepted ethical principles.
 - Has demonstrated proficiency in speaking and understanding both languages.
 - Is able to interpret effectively, accurately and impartially using necessary specialized vocabulary.
 - In person or appropriate video remote interpreting service.

45 CFR 92.201

LIMITED ENGLISH PROFICIENCY

INTERPRETERS

DO NOT:

- Refuse to provide care due to cost.
- Charge for interpreter.
- Require the individual to provide his/her own interpreter.
- Rely on adult accompanying the individual *unless*:
 - Emergency involving imminent threat to safety and no qualified interpreter immediately available, or
 - Individual requests that the accompanying adult interpret, the adult agrees, and reliance on adult is appropriate under circumstances.
- Rely on minor *except* in emergency involving imminent threat to safety and no qualified interpreter immediately available.
- Rely on staff other than qualified bilingual/multilingual staff who is designated to provide interpreting as part of assigned job duties.



LIMITED ENGLISH PROFICIENCY

TRANSLATIONS

- Must use qualified translator to translate vital documents.
 - “Qualified translator” includes someone who
 - Adheres to generally accepted ethical principles.
 - Has demonstrated proficiency in writing and understanding both languages.
 - Is able to translate effectively, accurately, and impartially using necessary specialized vocabulary.
 - Interpreter ≠ Translator
 - Beware using automatic translation technologies.

(42 CFR 92.201)

LIMITED ENGLISH PROFICIENCY

TRANSLATIONS: VITAL DOCUMENTS

Title VI requires translation of “vital” documents.

- “Vital” = translation vital to service and important consequences if translation is not accurate and timely.
- Safe harbor: translate vital documents for LEP groups that constitutes 5% / 1,000 in service population; oral translation of other documents.

Vital Documents	Non-Vital Documents
Consent forms	General Information
Complaint forms	Patient satisfaction surveys
Intake forms with health consequences	Menus
Notices of patient rights, <i>e.g.</i> , HIPAA, CoPs, etc.	Large documents, <i>e.g.</i> , enrollment handbooks
Notices of eligibility criteria	
Notice of free LEP services and how to obtain	

INDIVIDUALS WITH DISABILITIES



INDIVIDUALS WITH DISABILITIES

- May not discriminate against individuals with a disability or regarded as having a disability, *i.e.*, a physical or mental impairment that substantially limits one or more major life activities.
 - This includes both patients and their **COMPANIONS** with disabilities.
- Take appropriate steps to ensure that communications are as effective as communication with individuals without disabilities, including providing appropriate auxiliary aids or services where necessary.

42 USC 12101 *et seq.*; 28 CFR part 36; 45 CFR 92.4, 92.202

INDIVIDUALS WITH DISABILITIES

AUXILIARY AIDS

Hearing Impaired

- Qualified interpreters
- Video remote interpreting
 - Must satisfy standards
- Note takers
- Real-time computer-aided transcription services
- Written materials
- Exchange of notes
- Assistive listening devices
- Others

Visually impaired

- Qualified readers
- Taped texts
- Audio recordings
- Braille materials and displays
- Screen reader software
- Optical readers
- Secondary auditory programs
- Large print materials
- Others

28 CFR 36.303; 45 CFR 92.4

INDIVIDUALS WITH DISABILITIES

AUXILIARY AIDS

Under ADA:

- “The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place.”
- “A [provider] should consult with individuals with disabilities whenever possible to determine what type of auxiliary aid is needed to ensure effective communication, but the ultimate decision as to what measures to take rests with the [provider], provided that the method chosen results in effective communication.”

28 CFR 36.303(c)(1)(ii)

INDIVIDUALS WITH DISABILITIES

AUXILIARY AIDS: INTERPRETERS

DO NOT:

- Refuse to provide care due to cost.
- Charge for interpreters.
- Require person to provide his/her own interpreter.
- Rely on adult accompanying person except:
 - Emergency involving imminent threat to safety and no qualified interpreter immediately available, or
 - Person requests that the accompanying adult interpret, the adult agrees, and reliance on adult is appropriate under circumstances.
- Rely on minor except in emergency involving imminent threat to safety and no qualified interpreter immediately available.

SERVICE ANIMALS



SERVICE ANIMALS

- Service animals = dogs and miniature horses that are trained to work or perform tasks for people with disabilities.
- Generally must allow service dogs to accompany person with disability in all areas where members of public are allowed.
- May limit dog's access if:
 - dog is out of control and handler does not take effective action to control it;
 - dog is not housebroken; or
 - dog poses risk to health or safety.
- May require dog to be on leash unless it would interfere with service.
- May not inquire about disability or certification, but may ask:
 - Whether dog is required because of disability, and
 - What work or tasks the dog is trained to perform.

28 CFR 36.302; see DOJ Bulletin, *Service Animals* (7/11)

ADDITIONAL RESOURCES

- OCR website, www.hhs.gov/ocr/civilrights/index.html
 - Guidance and education
 - Sample policies and procedures
 - Nondiscrimination policy
 - Notifications of rights
 - LEP policy
 - Auxiliary aids policy
 - Program accessibility policy
 - Grievance procedures
- ADA website, <http://www.ada.gov/>
 - Guidance and education
 - Technical guidance

QUESTIONS?

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