EFFECTIVE REPRESENTATION OF LEP AND DEAF AND HARD OF HEARING CLIENTS
“In my life I have been to six attorney’s offices. I asked each for a sign interpreter. They showed me the ADA law and how it said they did not have to provide an interpreter because they had less than 15 people in their office.”

Comment from a Deaf client.
Legal Obligations

- Section 504 Rehabilitation Act - federally-funded programs must provide auxiliary aids and services.

- ADA Title III- law offices can’t deny services, based on disability, to Deaf or HOH clients or companions.
Legal Obligations

- Title VI- recipients of federal financial assistance are prohibited from discriminating on the basis of national origin, which includes limited English proficiency (LEP).

- State/Local Laws- may require government contractors and grantees, and/or places of public accommodation to provide interpreters and translated materials.
Title III of the ADA

- Public Accommodation- A law office is a place of public accommodation under Title III

- Title III Coverage- is not based on the number of employees in a law office or program.

- Auxiliary Aids and Services
  - Qualified interpreters- necessary for complex legal matters
  - Family and Friends are not qualified
  - Video Remote Interpreting (VRI) not VRS or Relay Services
  - Note-Taking
  - Lip-Reading
Title III of the ADA

- Deaf and Hard of Hearing & Companions
  - Right to auxiliary aids and services
  - Protections extended to family and companions. 28 C.F.R. § 36.303(c)(1)

- ADA prohibits attorneys from billing clients for auxiliary aids and services

- Tax Incentives- 26 U.S.C. § 44
Language Access Assessment and Planning Tool

1. Understanding How LEP Individuals Interact with Your Agency
2. Identification and Assessment of LEP Communities
3. Providing Language Assistance Services
4. Training of Staff on Policies and Procedures
5. Providing Notice of Language Assistance Services

www.lep.gov
How Do LEP Individuals Interact with Your Agency or Office?

Self-Assessment Questions

There is no “correct” answer

Think about your response to each
Does your agency interact?

1. Does your agency interact or communicate with the public or are there individuals in your agency who interact or communicate or might interact or communicate with LEP individuals?

[ ] YES

[ ] NO
How do you interact?

2. Please describe the manner in which your agency interacts with the public or LEP individuals:

<table>
<thead>
<tr>
<th>☐ In-Person</th>
<th>☐ Via</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Telephonically</td>
<td>☐ Correspondence</td>
</tr>
<tr>
<td>☐ Electronically (e.g. email or website)</td>
<td>☐ Other: (please specify)</td>
</tr>
</tbody>
</table>
Do you interact or communicate with the public?

3. Does your agency interact or communicate with the public or are there individuals in your agency who interact or communicate or might interact or communicate with LEP individuals?

- YES
- NO
Do you provide federal assistance?

4. Does your agency provide federal financial assistance to any non-federal entities? (This includes grants, training, use of equipment, donations of surplus property, and other assistance. Recipients of can range from state and local agencies, to nonprofits and other organizations.)

YES  NO
Do you require recipients to comply with Title VI?

4.a. If your agency does provide federal financial assistance to non-federal entities: Do you have an active program in place to require your recipients of federal financial assistance to comply with Title VI and language access standards?

YES  NO
Are recipients budgeting for language services?

4.b. If your agency does provide federal financial assistance to non-federal entities: Does your agency inform recipients of federal financial assistance that they should budget for language assistance services?

YES  NO
Do you inform recipients of FFA for language services?

4.c. If your agency does provide federal financial assistance to non-federal entities: Does your agency inform recipients of federal financial assistance about which grants can be used, in whole or in part, to improve language access?

YES  NO
Language Access Policies Across the Nation

- Legal Aid Foundation of Los Angeles
- Lone Star Legal Aid
- South Carolina Legal Services
- Georgia Legal Services Program
Legal Aid Foundation of Los Angeles

• Policies and Procedures on Providing Legal Services to LEP Clients
• Identified language needs of the community based on census data, community based organizations, and social services agencies
• LEP Taskforce reviews Policies and Procedures on an annual basis and gives trainings
Legal Aid Foundation of Los Angeles

• When an interpreter/translator is needed:
  – Use bilingual staff
  – Use other language resources
    • Domestic Violence Shelter with language resources
    • Community-based organizations
  – Use language line
Legal Aid Foundation of Los Angeles

• Bilingual staff receive language supplements based on the level of their oral and written abilities
• Court certified interpreters administer the oral/written tests
• If staff receives the language supplement, he/she is required to use their language skills
Legal Aid Foundation of Los Angeles

• Language posters in clear view
• Brochures available in different languages
• Community Outreach (media, community-based organizations, community fairs)
Staff evaluation:

– Yearly review with staff members
– What challenges they face in serving LEPs
– looking at the numbers of their LEP clients
– opportunity to remind them of LEP policies
– ask for suggestions on how to improve LEP services
Legal Aid Foundation of Los Angeles: API Unit

APIs in Los Angeles County

• 1.2 million in Los Angeles County (13%)
• 70% are foreign-born
  • Compared to 49% of Latinos / 36% of LA County
• 45% cannot read or speak English
• More than 300 Asian languages and dialects are spoken among 34 Asian ethnic groups
• 14% live in poverty
  • 24% of Koreans in Koreatown
  • 26% of APIs in Long Beach
  • 38% of Cambodians
Legal Aid Foundation of Los Angeles: API Unit

1980s
- Low API numbers
- Task Force formed

1990s
- Community Clinics
- Bridge Project
- Language lines
- API Community Attorney

2000s
- Full-fledged unit within LAFLA
- Increased staff, clinics, lines
- Formal collaborations with other groups
Legal Aid Foundation of Los Angeles: API Unit

Language Lines
Cantonese, Mandarin, Korean, Vietnamese, Japanese, Khmer, Thai

Community Clinics
Chinatown, Koreatown, Little Tokyo, Long Beach
Cambodian Community, KABA, SCCLA, JABA

Direct Referrals/Collaborations
From shelters and community-based organizations through formal and informal collaborations
Legal Aid Foundation of Los Angeles: API Unit

- Directing attorney (Korean)
- Staff attorney (Korean)
- P/T attorney (Chinatown clinics) (Mandarin)
- P/T Trafficking Outreach Paralegal (Korean)
- Outreach Coordinator (LB) (Khmer)
- Legal Secretary (Korean)
- 12 – 15 P/T Law Students and Volunteers (Korean, Cantonese, Mandarin, Japanese, Vietnamese, Khmer, Thai)
Lone Star Legal Aid

• One attorney in charge of instituting new LEP policies, trainings, and materials.
• One point person for internal staff who may interpret/translate.
• When in need of interpreter/translator:
  – Use volunteers, staff, and interns
  – Use language line
• Bilingual staff are based on self-assessment
• Assessments are done using:
    • Based on: comprehension, fluency, vocabulary, pronunciation, and grammar
  – Written – Language Proficiency Index (developed by the University of British Columbia)
    • Based on: sentence structures, English usage, reading comprehension, and essay writing
Everyone’s language proficiency is kept on file using the **Linguistic Proficiency Self Assessment Guide**, which combines the oral and written self-assessments.

Staff assessed at a 4 or above is used for interpretation or translation.
South Carolina Legal Services

• Surveys
  – One given to client and advocate
  – Survey is translated into language of client
  – Done for in-house and contracted interpreters

• Tracking
  – Surveys are returned to Language Access assistant who maintains a computer file on each interpreter and keeps tally of scores
  – Based on score, in-house interpreters offered training and contract interpreters replaced
Interpreter Survey for Clients

Survey Questions
(Respond with Always, Mostly, Sometimes, Never)

1. The interpreter treated me fairly.
2. The interpreter respected my rights.
3. The interpreter was unbiased.
4. The interpreter acted professionally.
5. The interpreter was polite toward me.
6. I am confident that the interpreter will keep my case information confidential.
7. To the best of my knowledge, the interpreter accurately interpreted what I said into English.
8. To the best of my knowledge, the interpreter accurately interpreted what the English speaker said into my language.
9. I would use this interpreter again.
10. I believe all aspects of the meeting/phone call were interpreted for me.
11. The interpreter is someone who interprets what I say into English and will interpret the meetings/phone call with the attorney into my language for me.
12. use this interpreter again.
13. I believe all aspects of the meeting/phone were interpreted for me.
Interpreter Survey for Attorneys

Survey Questions
(Respond with Always, Mostly, Sometimes, Never)

1. The interpreter was unbiased.
2. The interpreter acted professionally.
3. The interpreter was polite toward me and the client.
4. I am confident that the interpreter will keep my case information confidential.
5. To the best of my knowledge, the interpreter accurately interpreted what I said into the client’s language.
6. To the best of my knowledge, the interpreter accurately interpreted what the client said into English.
7. I would use this interpreter again.
8. I believe all aspects of the meeting/phone were interpreted for me.
South Carolina Legal Services

• Training
  – Given depending on needs of individual in-house interpreter based on survey results and individual self-assessment
  – Non-bilingual advocates trained in use of interpreters

• Confidentiality Agreement
  – Given to contract interpreters prior to interpreting session (actual document in packet)
Interpreter Confidentiality Agreement

The interpreter signs an agreement stating they:

1. Shall not discuss or disclose any information related to any SCLS client to anyone outside of SCLS even after they are no longer retained by SCLS.

2. Has a duty and responsibility to preserve and protect privacy and confidentiality as it relates to any personal information about a client and/or his or her family.

3. Will keep confidential information relating to persons who consult with SCLS but do not become clients including the fact that the person was consulted.

4. Will disclose whether they know the client or opposing party in a matter and anyone who is related to or acquainted, and if they do, whether it will affect their interpretation.
SCLS Case Management System

- Legal Server is system used
- Must check LEP box yes or no for spoken and written language
- Must input language preferred for spoken and written correspondence, does not default to English
- Includes fields for ASL and Braille
Georgia Legal Services Program

• Protocol to speak immediately with LEP clients when they call
• Realized that LEP persons often give up on help if they are told to wait or given a call back
• Within the first year of the new protocol, there was more than a 100% increase in LEP persons who completed intake and became clients
Georgia Legal Services Program

• Educating the judiciary on court-certified interpreters
• Developed and require the use of standard motions and briefs seeking appointment of court-certified interpreters
• Posted the motions and briefs on the pro bono website for staff and volunteers to use
Georgia Legal Services Program

• Spanish listserv for bilingual Spanish speakers to share information about language and culture of Latinos
• Using Sharepoint to review and share translated documents
State of Language Access

Results of the National Voluntary Self-Assessment of Legal Services Programs For New York State

National Language Access Advocates Network (N-LAAN)
39 Programs Responded

- Urban/Rural: 2.56%
- Urban: 41.03%
- Rural: 5.13%
- Urban/Suburban/Rural: 51.28%
Program Type

- LSC funded group, 27.03%
- Non-LSC funded group, Iolta funded, 54.05%
- Non-LSC, Non-Iolta, does direct legal representation, 5.41%
- Bar Association / Membership organization in legal services, non-profit, 8.11%
- Social Service Group, 2.70%
- Other, 2.70%

Legend:
- LSC funded group
- Non-LSC funded group, Iolta funded
- Non-LSC, Non-Iolta, does direct legal representation
- Bar Association / Membership organization in legal services, non-profit
- Social Service Group
We Think We’re Doing Well

• Most or All of the time
  – We communicate in the client’s primary language (89%)
  – We ensure clear and candid communication with LEP clients (89%)
  – We use qualified interpreters to do so (86%)
  – We push for clients to receive adequate interpretation in court ... BUT...
We Think We’re Doing Well

• Only 34% of us bring our own interpreter to facilitate private communication with our client – most of the time or some of the time.

• We are weak on testing and training non-professional interpreters
  – Only 18% of us have tested non-professional interpreters all or most of the time.
  – Only 18% of us have provided training for non-professional interpreters all or most of the time.
Non-Representational Services

• We are inconsistent in ensuring that pro se assistance is provided in all primary languages.
• In community meetings, simultaneous interpreting is rare (2.7%).
• We translate key documents into clients’ principle languages – 60% said most or all of the time.
• Most of us say our intake system is accessible to LEP clients most or all of the time (61%).
• And that clients are served by bilingual staff or competent interpreters most or all of the time (73%).
• BUT .....
Most or All of the Time …

• Reception areas are multi-lingual for only 29% of us.

• And language options are offered early in the process for only 49% of us.
Almost All of Us Say...

• We never discriminate against persons on the basis of English language ability (96%)
• And We take responsibility for ensuring clear and candid communication with LEP clients (89%)
Most or All of the Time ...

- We have strategies or protocols to respond to LEP clients (73%)
- But only 34% of us engage in outreach on an ongoing basis
- 57% of us say we have provided training on the fundamental importance of serving LEP clients in their primary language.
• Only one program responded that they had provided training on:
  – how to assess the need for language services by clients.
  – how to work with interpreters.
  – how to access interpreting and translating services.
Resources

- Most providers (59%) say we budget adequate resources to meet the needs of LEP people most or all of the time.
- 62% of us say that translation and interpretation costs represent less than 1% (53%) or less than 2% (9%) of our budget.
- And 43% of us budget less than $5,000 a year for interpretation and translation.
- Only 19% of us routinely include the cost of translation or interpretation in grant requests.
WE’RE TRYING TO DO THE RIGHT THING

80% of us say that we do not use minors to interpret absent exigent circumstances.
But we still have some bad habits...

30% of us say that we still use family members or friends of our clients to interpret some of the time.
EVALUATION

• Most of us have not evaluated our effectiveness in the last 12 months (56%).
• And most of us (51%) say we have not reviewed program priorities and emerging needs for LEP clients in the last three years.
New York lags on

• Providing interpreters for private communication with our clients.
• Interpreting for community meetings.
• Testing and training of non-professional translators.
• Multi-lingual Signage.
NY lags on...

- Offering language options early on in the intake process.
- Ongoing outreach to LEP communities.
- Training on how to assess need, how to work with interpreters, and how to access services.
- Evaluations.
Program Self-Evaluation ....
On a Dime

• Convene LEP Committee
• Review and Update data about LEPs
• Review Interpretation Cost
• Review Vital Documents
• Review Case Management Data
Program Self-Evaluation .... On a Dime

• Test your Intake System

• Plan Training for Staff

• Continue Work on Vital Documents

• Fix the Problems Identified in the Self-Evaluation
Contact Information

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