

SLOHA NONDISCRIMINATION AND LANGUAGE ACCESS PLAN

I. PURPOSE

- To ensure compliance with regulations regarding non-discrimination
- To ensure compliance with regulations regarding access to healthcare programs and activities for persons with limited English proficiency
- To articulate standards for interpretation and translation
- To identify standards for certifying and compensating qualified bilingual staff.

II. SCOPE

Applies to all County of San Luis Obispo Health Agency programs, staff, and contractors

III. POLICY

Consistent with State and Federal Regulations, the County of San Luis Obispo Health Agency (SLO HA) shall not discriminate on the basis of race, color, national origin, sex, age, or disability in any health programs or activities and shall take reasonable steps to provide meaningful access to each individual with limited English proficiency

IV. DEFINITIONS

- **"Limited English Proficient Person (LEP)"** means "...an individual whose primary language for communication is not English and who has a limited ability to read, write, speak or understand English." (45 CFR § 92.4)
- **"Qualified interpreter"** means one who, via a remote interpreting service or in person,
 - 1) Adheres to generally accepted interpreter ethics principles, including client confidentiality;
 - 2) Has demonstrated proficiency in speaking and understanding both spoken English and [the relevant] spoken language; and
 - 3) Is able to interpret effectively, accurately, and impartially, both receptively and expressly, to and from such language(s) and English, using any necessary specialized vocabulary, terminology and phraseology. (45 CFR § 92.201(d)(1))
- **"Qualified bilingual/multilingual staff"** means a member of the SLO HA's workforce who is designated to provide oral language assistance as part of the individual's current, assigned job responsibilities and who has demonstrated to the SLO HA that he or she:
 - 1) Is proficient in speaking and understanding both spoken English and another spoken language, including any necessary specialized vocabulary, terminology and phraseology, and

- 2) Is able to effectively, accurately, and impartially communicate directly with individuals with limited English proficiency in their primary languages. (45 CFR § 92.201(e))
- **“Qualified translator”** means a person who:
 - 1) Adheres to generally accepted translator ethics principles, including client confidentiality;
 - 2) Has demonstrated proficiency in writing and understanding both written English and at least one other written non-English language; and
 - 3) Is able to translate effectively, accurately, and impartially to and from such language(s) and English, using any necessary specialized vocabulary, terminology and phraseology. (45 CFR § 92.201(d)(2)).
 - **Culturally and Linguistically Appropriate Services (CLAS)** means a set of recognized standards which aim to improve health care quality and advance health equity by establishing a framework for organizations to serve the nation's increasingly diverse communities. <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>

V. PROCEDURE

- A. Notice to public of non-discrimination and free language access (section 1557 of the Affordable Care Act)
 1. POSTED NOTICE: SLO HA shall conspicuously post written notice in all clinics serving clients of its nondiscrimination and language access policy. The notice shall be written in the top 15 languages spoken by individuals with limited English proficiency in California and shall contain, at minimum, the following information:
 - a. Statement of nondiscrimination on the basis of race, color, national origin, sex, age, or disability in health programs and activities
 - b. Availability of free, qualified interpreters and information in alternate formats
 - c. Availability of free language assistance services, including translated documents and oral interpretation
 - d. How to obtain the aids and services described above
 - e. Contact information for the employee responsible for coordinating compliance
 - f. Availability of the grievance procedure and how to file a grievance
 - g. How to file a discrimination complaint with Office of Civil Rights (OCR)
 2. Notice in publications: SLO HA shall place the above-described notice in significant publications and shall place a modified notice in and small publications.
- B. Availability of free oral interpretation in both threshold and non-threshold languages
 1. SLO HA shall make reasonable efforts to recruit and train qualified bilingual staff as direct service providers.
 2. When a qualified bilingual staff member is not available as a service provider, SLO HA shall arrange free interpretation services from a qualified interpreter.

3. In providing interpretation services, staff shall NOT:
 - a. Require an individual with limited English proficiency to provide his or her own interpreter
 - b. Rely on an adult accompanying an individual with limited English proficiency to interpret or facilitate communication, except:
 - i. In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter for the individual with limited English proficiency immediately available; or
 - ii. Where the individual with limited English proficiency has first been informed of the availability of free interpreter services and specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances;
 - c. Rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter for the individual with limited English proficiency immediately available.
 - d. Rely on staff other than qualified bilingual/multilingual staff to communicate directly with individuals with limited English proficiency.
4. If a family member or minor interprets for a client in a situation described above, staff shall clearly document the reasons for this decision in the client's record.

C. Availability of translated material

1. SLO HA shall make significant publications and forms used by consumers available in English and Spanish (the threshold languages for San Luis Obispo County) and in alternative formats.
2. Translated material shall be completed by a qualified translator, as defined in Federal law and as determined by the Bilingual Certification Committee.
3. SLO HA shall ensure the accuracy of translated materials in terms of both language and culture by review of translated materials by multiple qualified translators and/or field testing.

D. Identification and compensation of qualified bilingual staff

1. SLO HA shall establish a Bilingual Certification Committee to implement a standard process for identifying and compensating qualified bilingual staff.
2. The Bilingual Certification Committee shall verify that each staff member who receives a bilingual compensation differential meets the Federal definition of "qualified bilingual staff" by conducting an oral interview to assess fluency, ability to communicate in a culturally appropriate manner, and knowledge of specialized vocabulary and terminology relevant to the staff member's role.
3. The Bilingual Certification Committee shall recommend compensation at one of two differential levels, based on staff role and expectation for using the non-English language.

- a. High differential shall be approved when bilingual skills are a primary element of the staff member's job and are used as a regular and routine part of the job. Operationally, the high differential means that the staff member is regularly called upon to use the non-English language at least 50% of a normal workweek.
- b. Low differential shall be approved when non-English language skills are used on a frequent but intermittent basis i.e., when the staff member is regularly called upon to use the non-English language less than 50% of a normal workweek.

E. Grievance Procedure

1. SLOHA shall establish a grievance process for addressing complaints about discrimination or language access.
2. Under SLO HA, the Behavioral Health Department shall designate the Patient's Rights Advocate as the Grievance Coordinator.
3. Contact information for the Patient's Rights Advocate shall be publicly posted in English and Spanish.
4. Grievances may be submitted orally or in writing and shall be investigated and resolved in a timely manner, normally within 60 calendar days.
5. The Patient's Rights Advocate shall notify the individual submitting the grievance in writing when resolution cannot be completed within 60 days.

VI. APPLICABLE STANDARDS/REGULATIONS

- Code of Federal Regulations (CFR), Title 45, Subtitle A Subchapter A, Part 92
- Patient Protection and Affordable Care Act, §1557 (42 USC. §18116)
- US Code 42, § 2000d (Title VI, Civil Rights Act of 1964)
- CFR Title 42, Chapter IV, Subchapter C, Part 438
- CFR Title 28, Chapter I, Part 35, Subpart E
- California Code of Regulations (CCR), Title 9, Chapter 11, § 1810.410

VII. RESOURCES

- <https://www.hhs.gov/civil-rights/for-individuals/language-assistance/index.html>
- Implementing CLAS standards: <https://www.thinkculturalhealth.hhs.gov/>