

Working with Limited English Proficiency (LEP) Clients

Poverty Law II – Spring 2024

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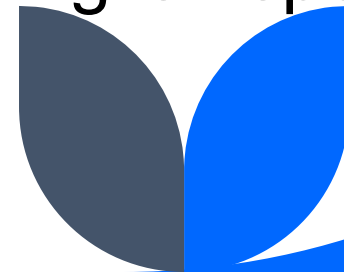


Importance for Poverty Law Practice

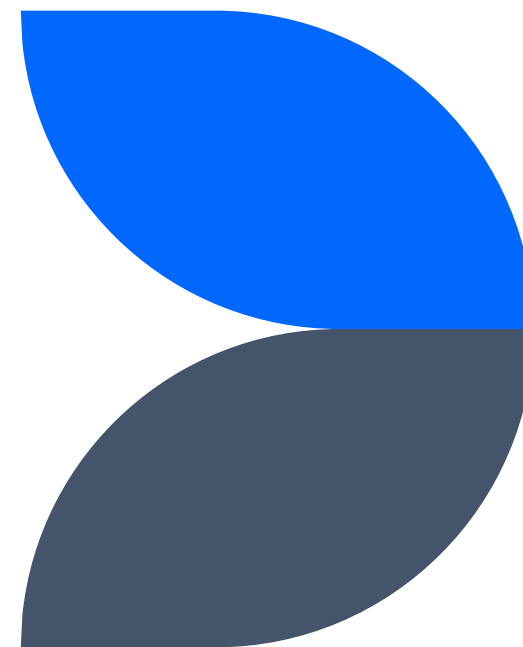
In Minnesota we have many refugee and other immigrant communities who speak a language other than English

- About 300 languages across the state
- Spanish, Somali, Hmong, and Karen are most common in the Twin Cities Metro area
- Other common languages in the state: Amharic, Oromo, Russian, Karenni

A large portion of legal aid clients are non-English speakers



Legal Background



Title VI and Executive Order 13166

- Title VI of the Civil Rights Act and its enforcing regulations prohibit both intentional and disparate impact discrimination based on national origin
- National origin discrimination includes conduct that has a disproportionate impact on LEP persons (*Lau v. Nichols*)
- Executive Order 13166 requires all recipients of federal funds to have a language access plan that explains their values and process for effectively communicating with individuals who speak a language other than English

Who Must Comply?

Any program receiving funding from the federal government

- Federal agencies (SSA, USCIS)
- State agencies (DHS, MDH, DEED)
- County agencies (Ramsey County, Hennepin County)
- Courts (state and federal)
- Subsidized housing providers
- Public schools
- Legal services providers

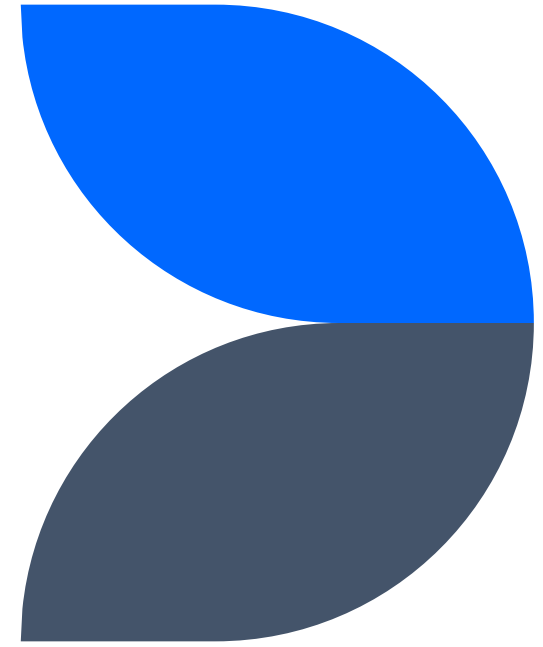
How to Comply?

- Goal is to obtain a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small business, small local governments, or small nonprofits
- Programs are not required to have a staff interpreter for every language or to translate every document into all languages

Language Access Policies for Government Benefits Agencies

- Provide free language assistance
 - bilingual staff > in-person interpreter > phone interpreter (Language Line)
 - Not supposed to use family members or minor children
- Language blocks on notices to alert LEP individuals that free language assistance is available
- Translated written notices
 - Limited to most common forms and most utilized languages

Working with Interpreters



What is Interpreting?

- **Rendering oral message in tone and meaning from one language to another**
- **Interpret = spoken; translate = written**
- **Modes: Simultaneous or consecutive**
- **Logistics: in person, telephonically, video conferencing**

Who Is the Interpreter?

- **Bilingual, varying levels of skill and training**
 - **Courts: specific training and certifications are required**
 - <https://www.mncourts.gov/Help-Topics/Court-Interpreter-Program.aspx>
 - **Medical: same**
 - <https://www.health.state.mn.us/facilities/providers/interpreter/index.html>
 - **Telephone interpreters (Language Line): limited training**
- **Role:**
 - **Communication conduit; broker cultural mediation**
 - ***Not:* assistant, social worker, driver, lawyer, child/family member**

Typical Interpreter Introduction

- **My name is...**
- **I will interpret everything that is said**
- **Please speak directly to each other**
- **I will interrupt to stop you so I can interpret**
- **Everything will be confidential**
- **Confirm the client can understand them**

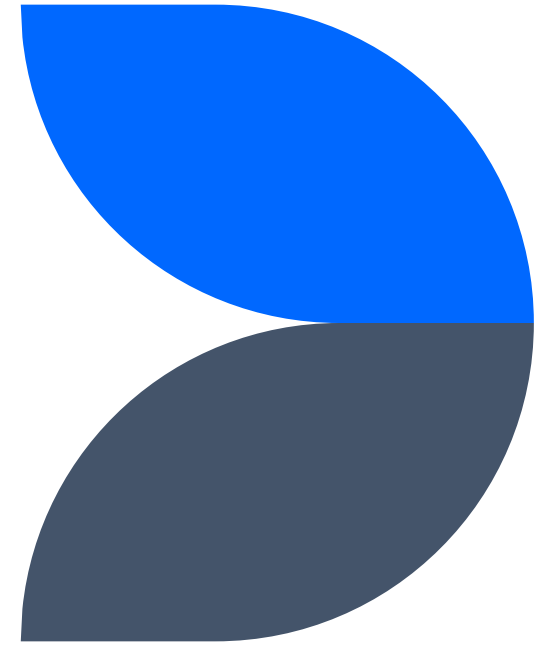
Preparing to Use an Interpreter

- **Get the right interpreter**
 - **Consider different dialects of the same language**
 - **Does the client speak multiple languages? Which do they prefer?**
- **In person**
 - **Schedule interpreter well ahead of meeting**
 - **Include time to meet with interpreter before meeting (~15 min)**
 - **Brief interpreter on what the meeting will be about, what you need to get done, answer questions**
- **By phone**
 - **Call interpreter before client if possible**
 - **Brief interpret on goals of call**
 - **Be clear about who will greet client when they answer or who will leave a voicemail**
- **Allow enough time**
 - **Have an agenda/plan**
 - **Expect it to take twice as long as it would with non-LEP client**

During Session

- **Speak slowly, clearly**
- **Use simple terms**
- **One question at a time**
- **Talk to client, not interpreter**
- **Pause often**
- **Check for understanding – side conversations or omissions? Frustration or confusion from client? Is the interpreter having to ask you repeat what you said multiple times?**
- **Clients who speak some English – prior to meeting/hearing talk to client about this**

Language Access Issues in Poverty Law Cases



Looking Beyond the Case in Front of You

Language access issues may not be immediately obvious in poverty law cases. You may think the legal issue is one thing, but you might be missing your best argument by failing to notice language access issues. Be on the lookout!

Title VI Violations

- **No private enforcement mechanism for disparate impact discrimination based on LEP**
 - **> send a letter to manager/director**
 - **> file a civil rights complaint**
 - **> if appealing a benefits denial/termination/overpayment use these facts if intent or fault are issues in the case**
 - **> if issues occur frequently and agency is on notice, may turn into intentional discrimination**
- **Examples:**
 - **Agency is not providing client with an interpreter when requested**
 - **Agency is not providing client with an adequate interpreter**
 - **Agency relies on family members to interpret**
 - **Court not providing an interpreter for required mediation sessions**

Common Poverty Law Language Access Issues

Government Benefits

Scenario: Agency did not explain forms/rules in client's preferred language.

Argument: Client cannot be expected to know and follow rules they are not aware of.

Housing

Scenario: Landlord does not respond to client's repair requests because client does not speak English.

Argument: Not an excuse, landlord needs to respond to all tenant requests the same.

Family

Scenario: Abusive opposing party speaks English and client does not. Abuser is strongly arguing against paying for an interpreter for mediation session.

Argument: Point out this aspect of abuse to the judge as a reason why interpreter is needed.





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