

AGENDA ITEM FOR ADMINISTRATIVE MEETING () Discussion only
(X) Action

FROM (DEPT/ DIVISION): County Counsel

SUBJECT: Limited English Proficiency Plan

<p>Background:</p> <p>Due to requirements to receive federal funding, the county must have a Limited English Proficiency Plan adopted to identify the need and steps necessary so that those with limited English can have access to county programs that are federally funded. The plan is before the Board for consideration and adoption.</p>	<p>Requested Action:</p> <p>Adopt Order No. BCC2023-014</p>
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ATTACHMENTS: Proposed Order

*****For Internal Use Only*****

Checkoffs:

- () Dept. Heard (copy)
- () Human Resources (copy)
- () Fiscal
- (X) Legal (copy)
- () (Other - List:)

To be notified of Meeting:

Needed at Meeting:

Scheduled for meeting on: March 15, 2023

Action taken:

Follow-up:

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Adoption of)
Limited English Proficiency Plan) Order No. BCC2023-014
for Umatilla County)

WHEREAS Title VI of the Civil Rights Act of 1964, as amended, codified as 42 USC Section 2000e, prohibits discrimination on the basis of race, color or national origin, and Executive Order 13166, requires the identification of need for services to those with limited English proficiency;

WHEREAS the population of Umatilla County consists of a number of residents that speak English less than very well;

WHEREAS Umatilla County has federal assisted program or activities, and is subject to Title VI;

WHEREAS a limited English proficiency plan has been drafted to document the number of residents that have limited English proficiency and the steps taken to provide access to County services.

NOW THEREFORE the Umatilla County Board of Commissioners orders and adopts the Umatilla County Limited English Proficiency Plan, as set out in the attached, which is incorporated by this reference, and the policies and procedures set out in the plan.

DATED this 15th day of March, 2023.

UMATILLA COUNTY BOARD OF COMMISSIONERS

Daniel N. Dorran, Chair

John M. Shafer, Commissioner

Celinda A. Timmons, Commissioner

ATTEST:
OFFICE OF COUNTY RECORDS

Records Officer

Chapter 1: Introduction

Policy

It is the intent of Umatilla County to provide timely, meaningful access for limited English proficient (LEP) persons to all programs and activities. All personnel shall provide free language assistance services to LEP individuals whom they encounter or whenever a LEP person requests language assistance services. All personnel will inform members of the public that Umatilla County will provide language assistance services free of charge to LEP persons.

Limited English Proficiency (LEP): People who do not speak English as their primary language and have limited ability to read, speak, write, or understand English

Purpose

The purpose of this plan is to establish effective guidelines, consistent with Title VI of the Civil Rights Act of 1964 and Executive Order 13166, for County staff to follow when providing services to, or interacting with, individuals who have limited English proficiency (LEP). As defined by Executive Order, LEP persons are those who do not speak English as their primary language and have limited ability to read, speak, write, or understand English. Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other vital information. These individuals may be entitled to language assistance for programs and services that receive assistance from the federal government. Executive Order 13166 requires agencies to develop creative solutions to address the needs of this ever-growing population of individuals whose primary language is not English.

Population

Based on the most current available census data, the population of Umatilla County is 79,988. People who identify as Hispanic or Latino make up 28.6 percent of the population, while people who identify as white alone make up 64.1%. Language other than English is spoken at home in 22.6 percent of the population. Of those individuals, the other language was Spanish for 94.7 percent, or 15,885 people. The next highest language spoken was Other Indo-European language for 321 individuals, or 1.19 percent. In 2021, the total Limited English Proficiency (LEP) population was 8.3 percent, or 6,193 people, and in 2017 constituted 4.5% of the households.

Plan

This plan was developed in accordance with federal guidelines. Recipients of federal financial assistance, such as Umatilla County, have an obligation to reduce language barriers that can preclude meaningful access by LEP person to important benefits, rights, programs, information, and services. Recipients of federal funding are required to conduct a Four-Factor Analysis to determine the extent of the recipient's obligation to provide LEP services. The four factors are: 1) the number or proportion of LEP persons eligible to be served or likely to be served by the program; 2) the frequency with which LEP individuals come in contact with the program; 3) the nature and importance of the program, activity, or service provided by the program to people's lives; and 4) the resources available and cost. Consistent with federal guidelines for an effective LEP policy, this plan includes the following elements: (a) identification of LEP persons who need language assistance; (b) identification of ways in which language assistance will be provided; (c) staff training; (d) providing notice to LEP persons; and (e) monitoring and updating LEP plan.

Chapter 2: Regulatory Framework

Federal Funding Obligations

Umatilla County is a recipient of Federal financial assistance. All recipients are required to comply with various nondiscrimination laws and regulations, including Title VI of the Civil Rights Act of 1964.

Civil Rights

Title VI of Civil Rights Act of 1964 forbids discrimination against anyone in the United States because of race, color, or national origin by any agency receiving Federal funds. Subsequently, related authorities have expanded Title VI protections to include gender, age, and disability.

Umatilla County approved a Title VI Plan that includes the following policy statement:

Umatilla County, acting through its County Departments, assures that no person shall, on the grounds of race, color, national origin, sex, age, disability or income as provided by the Title VI of the Civil Rights Act of 1964 and related authorities, be excluded from participation in, be denied benefits of, or otherwise subjected to discrimination under any County sponsored program or activity. The County further assures that every effort will be made to ensure non-discrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

Limited English Proficiency

Executive Order 13166 requires Federal agencies to assess and address the needs of otherwise eligible persons seeking access to federally conducted programs and activities who, due to limited English proficiency, cannot fully and equally participate in or benefit from those programs and activities. These federal obligations extend to agencies that provide federal programs and services (i.e. that receive federal funds). Federal guidelines provide the following prompts to agencies to determine applicability:

Limited English Proficiency Program -- Authorities

- Title VI of the Civil Rights Act of 1964
- US DOT Title VI Regulation (49 CFR 21)
- FHWA Title VI Regulation (23 CFR 200)
- Executive Order 13166
- US DOJ LEP Policy Guidance (June 18, 2005)
- US DOT LEP Guidance (Dec 14, 2005)

Does the agency (i.e. Umatilla County) receive Federal financial assistance by means of grants, cooperative agreements, training, use of equipment, donations of surplus property, or other assistance?

The focus of this LEP Plan is to address the federal funding that Umatilla County receives for county projects.

Executive Order 13166 directs each agency to prepare a plan to improve access to federally conducted programs and activities by eligible LEP persons consistent with the standards set forth in the LEP Guidance. Building upon the related policy guidance developed by the U.S. Department of Justice (DOJ LEP Guidance), the U.S. Department of Transportation issued the "Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons," dated December 14, 2005. As a recipient of federal funds, Umatilla County's LEP Plan was developed following these guidelines.

The DOJ LEP Guidance advises each Federal department or agency to "take reasonable steps to ensure 'meaningful' access [to LEP individuals] to the information and services they provide." The DOJ LEP Guidance goes on to provide the following:

[W]hat constitutes reasonable steps to ensure meaningful access will be contingent on a number of factors. Among the factors to be considered are the number or proportion of LEP persons in the eligible service population, the frequency with which LEP individuals come in contact with the program, the importance of the service provided by the program, and the resources available to the [agency].

This national policy guidance for complying with Executive Order 13166 is referred to as the Four Factor Analysis. The guidance explains that the identification of "reasonable steps" to provide oral and written services in languages other than English is to be determined on a case-by-case basis through a balancing of all four factors. After completing the four-factor analysis and deciding what language assistance services are appropriate, a recipient should develop an implementation plan to address the identified need of the LEP population it services with, at a minimum, the following elements:

- Identification of LEP individuals who need language assistance
- Language assistance measures
- Training staff
- Providing notices to LEP persons
- Monitoring and updating the LEP plan

Chapter 3: Four Factor Analysis

The following factors are required to be considered to determine the reasonable steps to take to provide LEP individuals with meaningful access to programs, activities, and services:

- 1) number or proportion of people
- 2) frequency of contact
- 3) nature and importance of the program
- 4) available resources and costs.

An assessment of these four factors relative to Umatilla County is provided below. The following federal guidance was also taken into consideration:

Safe Harbor: The following action will be considered strong evidence of compliance with the recipient's written-translation obligations: The DOJ recipient provides written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. (US DOJ *Guidance to Federal Financial Assistance Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*)

Factor 1: Number or Proportion of People

The purpose of this factor is to determine the number or proportion of people served or likely to be encountered who would potentially be excluded from the program or activity absent efforts to remove language barriers. LEP populations exist within Umatilla County and County staff has encountered LEP individuals in the course of their work. Demographic data was collected from on-line sources from the United States Census Bureau. According to census data, LEP populations are 7.8% of the total population of Umatilla County.

Umatilla County Demographics (2021 Census Estimates)

Race	Percentage	Population
White Alone	64.1%	51,272
Hispanic or Latino Alone	28.6%	22,877
American Indian, Alaska Native Alone	4.4%	3,519
Two or more races	2.9%	2,320
Black or African American Alone	1.3%	1,040
Asian Alone	1.2%	960
Native Hawaiian, Pacific Islander Alone	.2%	160

In terms of populations in which there could be 1,000 or more people with limited English proficiency, the language of use is Spanish. The majority of people who speak other languages also speak English very well.

Umatilla County, Oregon						
	Total		Percent of specified language speakers			
			Speak English only or speak English "very well"		Speak English less than "very well"	
Label	Estimate	Percentage	Estimate	Percentage	Estimate	Percentage
Population 5 years and over	74,321	(X)	68,128	91.7%	6,193	8.3%
Speak only English	57,548	77.4%	(X)	(X)	(X)	(X)
Speak a language other than English	16,773	22.6%	10,580	63.1%	6,193	36.9%
SPEAK A LANGUAGE OTHER THAN ENGLISH						
Spanish	15,885	21.4%	9,897	62.3%	5,988	37.7%
5 to 17 years old	4,114	5.5%	3,046	74.0%	1,068	26.0%
18 to 64 years old	10,913	14.7%	6,417	58.8%	4,496	41.2%
65 years old and over	858	1.2%	434	50.6%	424	49.4%
Other Indo-European languages	321	0.4%	229	71.3%	92	28.7%
5 to 17 years old	39	0.1%	39	100.0%	0	0.0%
18 to 64 years old	269	0.4%	179	66.5%	90	33.5%
65 years old and over	13	0.0%	11	84.6%	2	15.4%
Asian and Pacific Island languages	310	0.4%	233	75.2%	77	24.8%
5 to 17 years old	22	0.0%	21	95.5%	1	4.5%
18 to 64 years old	240	0.3%	181	75.4%	59	24.6%
65 years old and over	48	0.1%	31	64.6%	17	35.4%
Other languages	257	0.3%	221	86.0%	36	14.0%
5 to 17 years old	43	0.1%	43	100.0%	0	0.0%
18 to 64 years old	180	0.2%	145	80.6%	35	19.4%
65 years old and over	34	0.0%	33	97.1%	1	2.9%
CITIZENS 18 YEARS AND OVER						
All citizens 18 years old and over	54,568	(X)	52,780	96.7%	1,788	3.3%
Speak only English	46,459	85.1%	(X)	(X)	(X)	(X)
Speak a language other than English	8,109	14.9%	6,321	78.0%	1,788	22.0%
Spanish	7,533	13.8%	5,836	77.5%	1,697	22.5%
Other languages	576	1.1%	485	84.2%	91	15.8%

Spanish is the most common language other than English spoken in Umatilla County. It is spoken by 21.48% of the total population of Umatilla County. Most (62.3.7%) Spanish speakers also speak English very well. Of the four largest cities in Umatilla County, in 2021, three have large Hispanic or Latino populations: (1) Hermiston 51.1% or 9,942 population; (2) Umatilla 44.1 % or 3,251 population; (3) Milton-Freewater 43.5% or 3,108 population.

Factor 2: Frequency of Contact

Title VI obligations will differ for programs with little contact with LEP individuals compared to ones that serve a large LEP population and where its core business is to provide projects, products, and services to the general public. Frequency of contact may also vary based on specific geographic areas. All county departments may have some contact with LEP population. Departments that may have contact include Umatilla County Public Health, Umatilla County Human Services, Umatilla County Sheriff's Office, Umatilla County District Attorney's Office, and Umatilla County Community Development. In addition, certain divisions may have contact, including Assessment & Taxation, Elections, and Records Office. Those departments that may have offices in Hermiston or Milton-Freewater may have more contact, as well as those departments that interact directly with the public as part of their work. The encounters with LEP normally involve Spanish speaking. Most of these services are not federally funded.

Within the context of federal awards, the involved departments are limited to Umatilla County Public Health (US Department of the Treasury and US Department of Health and Humans Services), Emergency Management (US Department of Homeland Security), and District Attorney (US Department of Justice). The vast majority of federal awards are for public health services provided by Public Health. Federal funding is also received through Medicaid reimbursement for Public Health as well as Human Services. In providing services, these departments may encounter LEP.

Factor 3: Nature and Importance of Program

The purpose of this factor is to assess the nature and importance of the program, activity or service provided by the agency. The more important the activity, information, service or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services will be needed. Federal guidelines prompt agencies to consider whether denial or delay of access to services or information could have serious or even life-threatening implications for LEP individuals.

County is the agency receiving federal funding and the activity is public health services. Services are provided directly to the community, and which will include LEP. These services can include clinic appointments and immunizations with individual contact, and also community wide programs impacting larger segments of the population

Factor 4: Available Resources and Costs

Vital documents must be translated when a significant number or percentage of the population eligible to be served, or likely to be directly affected by the program/activity, needs services or information in a language other than English to communicate effectively. A document is considered vital if it contains information that is critical for obtaining federal services and/or benefits, or is required by law. Vital documents include, for example: applications, consent and complaint forms; notices of rights and disciplinary action; notices advising LEP persons of the availability of free language assistance; and letters or notices that require a response from the beneficiary or client.

The “significant number or percentage” is explained in the federal Safe Harbor as 1,000 people or 5% of the population; accordingly, Umatilla County’ vital documents would be translated into Spanish. Public Health forms and vital documents are translated into Spanish.

Chapter 4: Language Assistance

Executive Order 13166 directs recipients of federal financial assistance to take reasonable steps to provide LEP individuals with meaningful access to their programs, activities and services. The key to providing meaningful access is to ensure effective communication exists. “Reasonable steps” may cease to be reasonable where available resources and the costs imposed substantially exceed the benefits.

There are two main ways to provide language services: 1) oral interpretation either in person or via telephone interpretation services; 2) written translation services. Oral interpretation can range from on-site interpreters for critical services provided to a high volume of LEP persons, to access through commercially available telephonic interpretation services. Written translation can range from translation of an entire document to translation of a short description of the document.

Regardless of the type of language services provided, quality and accuracy of those services is critical to avoid potential consequences to both LEP individuals and County. The correct mix of interpretation and translation services should be based on what is both necessary and reasonable in light of the four factor analysis.

All staff will be provided notice of any policy and procedure, and staff that may have direct contact with LEP individuals will be trained in effective communication techniques, including the effective use of an interpreter.

Umatilla County will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities, programs and other benefits. This will include identification of need for translation, notice, and written and oral communication in language of LEP.

Given the four factor analysis, reasonable steps to provide meaningful access to LEP individuals are as provided below.

Identify need for Language Assistance

County staff will promptly identify the language and communication needs of the LEP person. If necessary, staff will use a language identification poster to determine the language. In addition, when records are kept of past interactions with person or family members, the language used to communicate with the LEP person will be included as part of the record.

Identify Language Assistance Measures

Staff will be identified and be responsible for:

- (a) Maintaining an accurate and current list showing the name, language, phone number of qualified interpreter staff.
- (b) Contacting the appropriate bilingual staff member to interpret, in the event that an interpreter is needed, if an employee who speaks the needed language is available and is qualified to interpret;
- (c) Obtaining an outside interpreter if a bilingual staff or staff interpreter is not available or does not speak the needed language.

Staff Resources & Instructions

Front-line staff will be provided with resources and instructions on how to respond to LEP individuals, such as the following:

- “I-Speak” language list to enable the LEP individual to self-identify their language needs
- List of bilingual staff to solicit assistance
- List of approved vendors to secure translation services

Bilingual staff is available for translation. Bilingual staff may receive incentive pay under County policy, which includes passing of independent conducted language proficiency and interpreter skills. Web based interpreting is also available on an as-needed basis.

Provide Notice

If applicable, the county will inform LEP persons of the availability of language assistance, free of charge, by providing written notice in languages LEP persons will understand. At a minimum, notices and signs will be posted and provided in intake areas and exam rooms. Notification will also be provided through one or more of the following: outreach documents, telephone voice mail menus, social media, and website.

Communication of information to LEP persons will be contained in vital documents, including but not limited to waivers of rights, consent to treatment forms, financial and insurance benefit forms, etc.

- (a) When translation of vital documents is needed, an employee will submit documents for translation into frequently-encountered languages to the assigned staff. Original documents being submitted for translation will be in final, approved form with updated and accurate legal and medical information.

(b) Facilities will provide translation of other written materials, if needed, as well as written notice of the availability of translation, free of charge, for LEP individuals.

Chapter 5 Monitoring and Updating LEP Plan

Federal guidelines prompt agencies to have an ongoing process to monitor its language assistance policies and procedures at least annually, to evaluate its effectiveness at serving LEP individuals and to modify accordingly. County' LEP Plan will be reviewed annually. Annual review will include the following:

- Changes in demographics, updated census data and population maps
- Additional documents, programs, services, and activities that need to be made accessible to LEP individuals
- Consideration of new resources including funding, collaborations with other agencies, emerging technology, and other mechanisms for ensuring improved access for LEP individuals

County will monitor the primary language of LEP individuals that seek and receive programs and services. This data will help County to accurately identify and efficiently address the changing needs of LEP communities. Outreach methods are recommended for continuous improvement. In addition, the County will assess the efficacy of these procedures, including but not limited to mechanisms for securing interpreter services, equipment used for the delivery of language assistance, feedback from patients and community organizations, etc. The integration of LEP Plan monitoring with the Title VI Annual Accomplishments will also enable a review of whether complaints have been received concerning the failure to meet the needs of LEP individuals.