

STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER
GOVERNOR

KODY H. KINSLEY
SECRETARY

**Policy on Meaningful Access for Individuals with Limited English Proficiency
and Equal Opportunity Participation for Individuals with Disabilities**

I. POLICY

The North Carolina Department of Health and Human Services (the Department) is prohibited from discriminating on the basis of national origin and disability in violation of *Title VI of the Civil Rights Act of 1964*, *Section 504 of the Rehabilitation Act of 1973*, *Title II and Title III of the Americans with Disabilities Act of 1990 (ADA)*, as amended by *ADA Amendments Act of 2008*, and other applicable federal and state laws and their implementing regulations with respect to access for individuals with Limited English Proficiency (LEP) and for individuals with disabilities. Additionally, the Department is prohibited from retaliating against anyone for engaging in a protected Civil Rights activity. All programs or activities administered by the Department or by an entity on behalf of the Department must take adequate steps to ensure that their policies and procedures do not deny or have the effect of denying individuals equal and meaningful access to programs, activities, benefits, and services for which such persons qualify.

II. PURPOSE

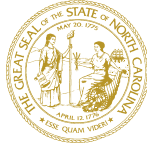
This policy ensures the Department and its divisions, offices, and facilities, including local entities, agents, providers, instrumentalities, public entities, and public accommodations take reasonable steps to ensure meaningful access for individuals with limited English proficiency (LEP) and provide equally effective communication for individuals with disabilities when accessing the Department's programs and activities.

III. SCOPE OF POLICY

These requirements apply to the Department and its divisions, offices, and facilities, including local entities, agents, providers, instrumentalities, public entities, and public accommodations that provide or administer the Departments programs and activities for public service ("Responsible Parties").

IV. AUTHORITIES

- *State of North Carolina, Executive Order No. 24 – Policies Prohibiting Discrimination, Harassment, and Retaliation in State Employment, Services, and Contracts Under the*



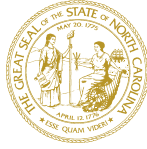
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Jurisdiction of the Office of the Governor. Prohibits from discrimination on the basis of race, color, ethnicity, national origin, disability, age, sex (including pregnancy, sexual orientation, gender identity and gender expression), religion, and National Guard or veteran status.

- *Title VI of the Civil Rights Act of 1964 (42 USC § 2000 et seq.)* prohibits discrimination based on race, color, and national origin in programs and activities receiving Federal financial assistance. (*DOJ - 28 CFR 42; USDA - 7 CFR 15; and HHS - 45 CFR 80*)
- *Section 504 of the Rehabilitation Act of 1973, as amended (29 USC § 701 et seq.)* prohibits discrimination based on disability within any program or activity receiving Federal financial assistance. (*DOJ- 28 CFR Part 42; USDA – 7 CFR 15b; and HHS - 45 CFR Part 84*)
- *Civil Rights Restoration Act of 1987 (Public Law 100-259)* clarifies the intent of Congress as it relates to the scope of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments Act of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, to ensure nondiscrimination in all programs and activities of a recipient, whether those programs and activities are federally funded or not.
- *Americans with Disabilities Act of 1990 (ADA) and ADA Amendments Act of 2008 (42 U.S.C. § 12101 et seq., Title II at 28 CFR 35)* prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments (public entities), except public transportation services. (*DOJ - Title II at 28 CFR 35 and Title III at 28 CFR 36*)
- *Section 1557 of the Patient and Affordable Care Act (ACA) [42 U.S.C. § 18116(a)]* prohibits discrimination based on race, color, national origin, sex (including pregnancy, sexual orientation, and gender identity), age, and disability in covered health programs and activities. (*HHS - 45 CFR Part 92*)
- *The Food and Nutrition Act of 2008, as amended, Supplemental Nutrition Assistance Program (SNAP), formerly the Food Stamp Program, 7 USC § 2011 et seq.,* prohibits discrimination against any applicant or participant in any aspect of program administration for reasons of race, color, sex, age, national origin, religious creed, political beliefs or disability in the administration of SNAP. (*7 CFR 271, 272, 273, and 276*)



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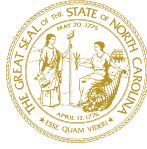
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- *7 CFR Part 15* prohibits discrimination based on race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior Civil Rights activity in programs and activities receiving federal financial assistance from the United States (U.S.) Department of Agriculture (USDA).
- *7 CFR Part 15b* prohibits discrimination based on handicap in programs and activities receiving assistance from the USDA.
- *7 CFR § 246.8(a)(b)(c)* USDA Women, Infants and Children program regulations for non-English materials.
- *7 CFR 272.4* USDA SNAP Bilingual Requirements.
- *28 CFR Part 42* prohibits discrimination based on race, color, national origin, and disability in the delivery of services or benefits in programs receiving federal financial assistance from the U.S. Department of Justice. Prohibits discrimination on the basis of disability in employment.
- *28 CFR Part 35* prohibits state and local governments (public entities) from discriminating based on disability in employment and in the delivery of services or benefits.

V. **DEFINITIONS**

Auxiliary aids and services. (1) Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing; (2) Qualified readers; taped texts; audio recordings; Brailled materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low



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vision;(3) Acquisition or modification of equipment or devices; and (4) Other similar services and actions.

Companion. A family member, friend, or associate of an individual seeking access to a service, program, or activity of a public entity, who, along with such individual, is an appropriate person with whom the public entity should communicate.

Digital Information. Information that a state or local government or public accommodation provides digitally. Information is defined as any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms.

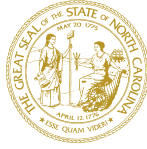
Digital Services. The delivery of digital information (e.g., data or content), and transactional services (e.g., online forms, applications) across a variety of platforms, devices, and delivery mechanisms (e.g., web sites, mobile applications). Digital services involve the electronic delivery of information, including data and content, across multiple platforms or devices, such as text, audio, video, mobile applications, and graphics that are transmitted for viewing over the internet. This includes social media (YouTube, Twitter, Facebook, etc.), websites, and applications that enable users to create and share information and content or to participate in social networking. Vital information displayed on these platforms or devices should be accessible to persons with LEP in frequently encountered languages.

Direct “In-Language” Communication. Monolingual communication in a language other than English between a multilingual staff and an individual with LEP (e.g., Korean to Korean).

Direct Threat. A significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services as provided in [28 CFR § 35.139](#) and [28 CFR 36.208](#).

Disability. With respect to an individual, disability means: (i) A physical or mental impairment that substantially limits one or more of the major life activities of such individual; (ii) A record of such an impairment; or (iii) Being regarded as having such an impairment

Discrimination. Different treatment which makes a distinction of one person or a group of persons from others; either intentionally, by neglect, or by the actions or lack of actions based on a protected class.



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Equally Effective Communication. This means that whatever is written or spoken must be as clear and understandable to people with disabilities as it is for people who do not have disabilities.

Federal Financial Assistance. Grants and loans of federal funds; the grant or donation of federal property and interests in property; the detail of federal personnel; the sale and lease of, and the permission to use federal property or any interest in such property or the furnishing or services without consideration, or at a consideration which is reduced for the purpose of assisting the recipient; and any federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

Individual with a Disability. Individual with a disability means a person who has a disability. The term individual with a disability does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use.

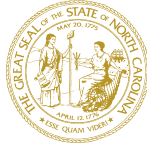
Limited English Proficient (LEP) Individuals. Persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. Additionally, LEP individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing).

Local Entities. Programs and services administered, established, or funded by the Department, including but not limited to county departments of social services, local health departments, Local management Entity/Managed Care Organizations (LME-MCOs), vocational rehabilitation local offices, subcontractors, vendors, and subrecipients.

Meaningful Access. Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals.

Other Power-Driven Mobility Device. Any mobility device powered by batteries, fuel, or other engines - whether or not designed primarily for use by individuals with mobility disabilities - that is used by individuals with mobility disabilities for the purpose of locomotion, including golf carts, electronic personal assistance mobility devices (EPAMDs), such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a [wheelchair](#) within the meaning of the ADA.

Public Entity. (1) Any State or local government; (2) Any department, agency, special purpose district, or other instrumentality of a State or States or local government; and (3) The National



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Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

Public Accommodation. A private entity that owns, leases (or leases to), or operates a place of public accommodation.

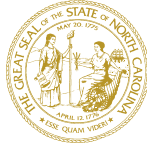
Qualified Individual with a Disability. An individual with a disability individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

Qualified Interpreter (for Disability). An interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral transliterators, and cued-language transliterators.

Qualified Interpreter (for LEP). A qualified interpreter is competent to provide interpretation services at a level of fluency, comprehension, impartiality, and confidentiality appropriate to the specific nature, type, and purpose of the information at issue. Additionally, qualified interpreters demonstrate proficiency in and ability to communicate information accurately in both English and in the other language and identify and employ the appropriate mode of interpreting (*e.g.*, consecutive, simultaneous, summarization, or sight translation); have knowledge in both languages of any specialized terms or concepts peculiar to the recipient's program or activity and of any particularized vocabulary and phraseology used by the LEP person who is being assisted; understand and follow confidentiality and impartiality rules to the same extent as the recipient for whom he or she is interpreting; and understand and adhere to their role as interpreters, without deviating into a role as counselor, advisor, or other inappropriate roles.

Qualified Reader (for Disability). A person who is able to read effectively, accurately, and impartially using any necessary specialized vocabulary.

Qualified Translator (for LEP). A qualified, competent translator is a highly trained individual who can render text from a source language into a target language while preserving meaning and adhering to generally accepted translator ethics and principles, including confidentiality. Competence can often be achieved by use of certified translators, though certification or accreditation may not always be possible or necessary. For those languages in which no formal



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accreditation currently exists, a particular level of membership in a professional translation association can provide some indicator of professionalism.

Recipient. *Recipient* means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity or any individual in any State, to whom Federal financial assistance is extended, directly or through another recipient, including any successor, assignee, or transferee thereof, but such term does not include any ultimate beneficiary.

Reasonable Modification. A reasonable modification is a change or exception to a policy, practice, or procedure that allows people with disabilities to have equal access to programs, services, and activities. A reasonable modification can also be a structural change made to existing premises, occupied or to be occupied by a person with a disability, to afford such person full enjoyment of the premises.

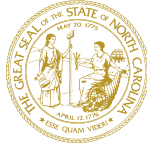
Responsible Party. The Department and its divisions, offices, and facilities, as well as local entities that provide or administer the Departments programs and activities for public service (“Responsible Parties”).

Retaliation or Reprisal. The act of intimidating, threatening, coercing, or unlawfully discriminating against any individual for filing a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding or hearing or any other right or privilege secured by the Civil Rights statutes and regulations enforced by a federal agency.

Service Animal. Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. This definition does not include comfort or emotional support animals.

Translation. The process of transferring ideas expressed in writing from one language to another language. Additionally, translation is the replacement of written text from one language (source language) into an equivalent written text in another language (target language).

Vital Document. Paper or electronic written information and material that contains information that is critical for accessing a component’s program or activities or is required by law. Additionally, whether or not a document (or the information it solicits) is “vital” may depend upon the importance of the program or activity, information, encounter, service, or benefit involved, and the consequence to the individual with LEP or a disability if the information in question is not provided accurately or in a timely manner.



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Video remote interpreting (VRI) service. An interpreting service that uses video conference technology over dedicated lines or wireless technology offering high-speed, wide-bandwidth video connection that delivers high-quality video images as provided in [28 CFR § 35.160\(d\)](#).

VI. Equal Opportunity Participation and Equally Effective Communication for Individuals with Disabilities

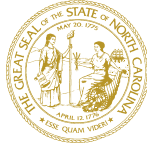
The Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act of 1990 (ADA), as amended by the ADA Amendments Act of 2008 protects the rights of people who have a physical or mental impairment that substantially limits their ability to perform one or more major life activities, such as breathing, walking, reading, thinking, seeing, hearing, working or eating. Section 504 applies to recipients of federal financial assistance. Title II of the ADA applies to state or local governments (public entities). Title III of the ADA applies to public accommodations.

Section 504/ADA Coordinator

The Department and Responsible Parties that are state and local governments that employ 50 or more persons must designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the ADA. Similarly, the Department and Responsible Parties that are recipients of federal financial assistance that employ 15 or more staff must appoint a person to ensure the entity carries out its responsibilities under Section 504. These roles can be held by the same person. Additionally, these entities must make available to all interested individuals the name, office address, and telephone number of the employee or employees designated as the Section 504/ADA Coordinator(s). The Department's Section 504/ADA Coordinator is the Compliance Attorney within the Office of General Counsel.

Self-Evaluation

Within one (1) year of the effective date of this policy and procedure, the Department and Responsible Parties that are state and local governments and employ over 50 people must evaluate all current services, policies and practices to determine if they afford individuals with disabilities an equal opportunity to participate through provision of reasonable modifications and appropriate auxiliary aids and services and to proceed to make necessary modifications as needed. (See 28 CFR 35.105). These entities must provide an opportunity to interested persons and individuals with disabilities or organizations representing persons with disabilities to participate in the self-evaluation process by submitting comments. Section 504 has similar requirements for recipients of federal financial assistance.



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For at least three (3) years following the self-evaluation, the Department and Responsible Parties that are state and local governments and employ 50 or more persons must maintain a file regarding its self-evaluation process that contains (1) a list of the interested persons consulted; (2) a description of areas examined and any problems identified; and (3) a description of any modifications made. These entities must also develop a transition plan for making structural changes or alterations to its facilities, websites, and online automated benefits systems to ensure program accessibility.

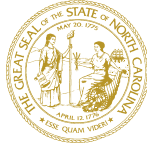
Reasonable Modifications

The Department and Responsible Parties will provide reasonable modifications in accordance with the ADA when the modifications are necessary to avoid discrimination based on disability, unless the entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. For example, entities may change policies, practices, or procedures to provide an accommodation or equal access. A reasonable modification can also be a structural change made to existing premises, occupied or to be occupied by a person with a disability, to afford such person full enjoyment of the premises.

Service Animals. The Department and Responsible Parties must provide individuals with disabilities with service animals an equal opportunity to participate in programs, services, and activities. A service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. Service animals must be allowed in all areas of a facility where the public is allowed except where the dog's presence would create a legitimate safety risk or would fundamentally alter the nature of a public entity's services. Additionally, individuals with disabilities who use service animals must not be isolated from other patrons.

Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the dog, or ask that the dog demonstrate its ability to perform the work or task. Staff cannot require individuals with disabilities to provide documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry. Service animals are not required to wear service animal vests or patches, or to use a specific type of harness.

Service animals must always be under the control of the handler and be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents him from using these devices. Individuals who cannot use such devices must maintain control of the animal through voice, signal, or other effective controls. In situations where it is not apparent that the dog is a service animal, staff may ask only two questions:



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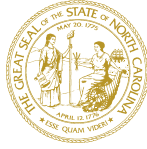
- 1) Is the animal required because of a disability?
- 2) What work or task has the dog been trained to perform?

Staff are not responsible for caring for or supervising a service animal. Service animals may be excluded only if 1) the dog is out of control and the handler cannot or does not regain control; or 2) the dog is not housebroken. If a service animal is excluded, allow individuals to enter the facility without the service animal.

Miniature Horses. The ADA requires the Department and Responsible Parties to make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. See [28 CFR 35.136\(i\)](#) and [28 CFR 36.136\(i\)](#). Federal regulations set out four assessment factors to assist staff in determining whether miniature horses can be accommodated in their facility. The assessment factors are (1) whether the miniature horse is housebroken; (2) whether the miniature horse is under the owner's control; (3) whether the facility can accommodate the miniature horse's type, size, and weight; and (4) whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

Wheelchairs, Mobility Aids, and Other Power-Driven Mobility Devices. The Department and Responsible Parties must allow individuals with disabilities who use wheelchairs, mobility aids or other power-driven mobility devices (OPDMD) into all areas where the public is allowed to go, unless the entity can demonstrate that the particular type of device cannot be accommodated because of legitimate safety requirements. Such safety requirements must be based on actual risks, not on speculation or stereotypes about a particular class of devices or how individuals will operate them. Factors for determining whether to permit OPDMDs on the premises can be found at [28 CFR 35.137\(b\)\(2\)](#) and [28 CFR 36.311\(b\)\(2\)](#).

Communicate clearly to the public any OPDMD not permitted in an area where the Department's programs, services, and activities are offered. Staff may not ask individuals using such devices about their disability but may ask for a credible assurance that the device is required because of a disability. If the person presents a valid, state-issued disability parking placard or card or a state-issued proof of disability, that must be accepted as credible assurance on its face. If the person does not have this documentation, but states verbally that the device is being used because of a mobility disability, that also must be accepted as credible assurance, unless the person is observed doing something that contradicts the assurance.



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Physical Accessibility. The Department and Responsible Parties must ensure individuals with disabilities are not excluded from programs and services because facilities are unusable or inaccessible to them. Entities must ensure that people with disabilities have access to programs and services under the same terms and conditions as other people. See the [2010 ADA Standards for Accessible Design contain](#) accessibility requirements.

Direct Threat

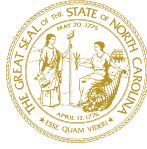
The Department and Responsible Parties are not required to permit an individual to participate in or benefit from the Department's services, programs, or activities when that individual poses a direct threat to the health or safety of others. [Note: Direct threat to *others – not self.*] "Direct Threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services as provided in [28 CFR § 35.139](#) and [28 CFR 36.208](#). Determining Direct Threat situations requires individualized assessment based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk. See 28 CFR § 35.139(b).

Safety

The Department and Responsible Parties may impose legitimate safety requirements necessary for the safe operation of its services, programs, or activities. However, an entity must ensure that its safety requirements are based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities. See 28 CFR § 35.130(h) and 28 CFR § 36.301(b).

Fundamental Alteration

The Department and Responsible Parties are not required to modify policies, practices or procedures or provide the requested auxiliary aid or service (see below) if the entity can demonstrate that making the modification or provision of the aid or service would fundamentally alter the nature of the service, program, or activity. If the modification requested would cause undue financial burden on the program or activity to the level that it would make continued operation of the program unfeasible, the modification need not be provided. However, denying a modification(s) under the fundamental alteration exception should not result in the denial of access to the program or other benefits or services.



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The decision that a particular aid or service would result in an undue burden or fundamental alteration must be made by a high level official, no lower than a department or agency head, after considering all resources available for use in the funding and operation of the service, program, or activity. The decision must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in an undue burden, an entity must take other action that would not result in an undue burden but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the entity.

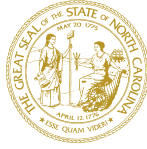
Equally Effective Communication for Individuals with Disabilities

No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the Department. To this end, the Department and Responsible Parties must ensure that communication with people with visual, hearing, or speech disabilities is equally effective as communication with people without disabilities when accessing its programs, activities, and services through the provision of appropriate auxiliary aids and services. This includes ensuring equal access to vital information on websites and digital services for persons with communication disabilities.

This effective communication rule applies to communications with applicants, participants and with their parent, spouse or companions in appropriate circumstances who have visual, hearing, or speech disabilities. A “companion” is a family member, friend, or associate of an individual seeking access to a service, program, or activity of a public entity, who, along with such individual, is an appropriate person with whom the public entity should communicate.

Effective Communication Plan and Implementation Procedures. Responsible Entities must adhere to and implement procedures consistent with the Department’s policy. The implementation procedures must:

1. Notify individuals with disabilities about the availability of auxiliary aids and services and how to request them in a format that they can understand;
2. Provide auxiliary aids and services when needed to communicate effectively with individuals with disabilities at no cost to them unless doing so would result in a fundamental alteration.
3. Take into consideration the nature, length, and complexity of the communication, as well as the person’s normal method(s) of communication when choosing an auxiliary aid or service.



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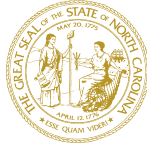
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4. Use qualified interpreters and do not require an individual with a disability to bring another individual with them to interpret.
5. Limit the use of adult or minor child (companions) as interpreters to emergency situations involving an imminent threat to the safety of welfare of an individual or the public when a qualified interpreter is not available. It is strongly discouraged that minor children be used as interpreters.
6. Only use an adult companion (never a child) as an interpreter in situations not involving an imminent threat when an individual requests this, the accompanying person agrees to interpret, and reliance on the accompanying adult is appropriate under the circumstances.
7. Not rely on an accompanying adult to interpret in situations not involving an imminent threat when there is reason to doubt the person's impartiality or effectiveness.
8. Require reasonable advance notice from people requesting aids or services, based on the length of time needed to acquire the aid or service, but may not impose excessive advance notice requirements (add limit to advance notice).
9. Honor "walk-in" requests for aids and services to the extent possible.
10. Ensure Video Remote Interpreting (VRI) technologies meet ADA performance standards (28 CFR 35 and 28 CFR 36.303(f)).
11. Accept telephone calls placed through Telecommunications Relay Service (TRS) and Video Relay Service (VRS), and staff who answer the telephone must treat relay calls just like other calls.
12. Train frontline staff on the requirements for communicating effectively with individuals with disabilities.

Auxiliary aids and services include, but are not limited to the following:

Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based



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telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing.

A qualified interpreter is an interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral transliterators, cued-language transliterators, certified deaf interpreters, tactile interpreters, and close-vision interpreters.

The [North Carolina Sign Language Interpreter Directory](#) is a resource for sign language interpreting and transliterating services for appropriate utilization. The responsible agency can contact their local [North Carolina Division of Services for the Deaf and Hard of Hearing Regional Center](#) for assistance or guidance in obtaining sign language interpreters, Communication Assistance Real-Time Translation (CART) services, or other aids and services. The Regional Centers are open Monday through Friday, 8am-5pm, with the exception of State holidays.

Additionally, the Department and its Responsible Entities must receive and respond to calls made by persons with hearing or speech disabilities through the free nationwide telecommunications relay services (TRS), which can be reached by calling 7-1-1. Staff must respond to telephone calls from a TRS in the same manner that it responds to other telephone calls. Staff must be trained on how to receive all forms of TRS, including Text-to-Voice TTY-based TRS, Voice Carry Over, Hearing Carry Over, Speech-to-Speech Relay Service, Shared Non-English Language Relay Services, Captioned Telephone Service, IP Captioned Telephone Service, Internet Protocol Relay Service, and Video Relay Service (VRS).

Additional Requirements for the Department and its State and Local Governments (Public Entities). The Department and its Responsible Entities that are state or local government entities must give primary consideration to the type of auxiliary aid or service requested by the person with the disability. Staff must honor that choice, unless they can demonstrate that another equally effective means of communication is available or that the aid or service requested would fundamentally alter the nature of the program, service, or activity or would result in undue financial and administrative burdens. If the choice expressed by the person with a disability would result in an undue burden or a fundamental alteration, the Department and its state or local government agencies still have an obligation to provide another aid or service that provides effective communication, if possible.



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Public Notifications for Disability Access. The Department and Responsible Parties must post effective notice of the availability of auxiliary aids and services at no charge and how to request them in a language and format that the public can understand. Display the notice in a prominent location at service delivery sites, on websites, and, where appropriate, within vital documents, program handbooks, meeting announcements, legal notices, etc. that are distributed to the public.

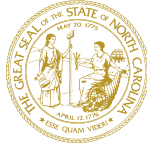
Recording and Tracking Disability Access Data. The Department and Responsible Entities must develop a method for recording and tracking requests for reasonable modifications and auxiliary aids and services at the point of contact with any person with disabilities. This system also must provide a method for staff to document what auxiliary aid or service was provided in response to each request when necessary to ensure equally effective communication. This recording and tracking method must ensure that staff follow the Department's policies regarding the use of family, friends, and minor children as interpreters to communicate with individuals with disabilities.

Website Accessibility. The Department and Responsible Parties must ensure that websites and digital services have accessible feature for individuals with disabilities.¹ An entity with an inaccessible website may also meet its legal obligations by providing an alternative accessible way for the public to use the programs or services, such as a staffed telephone information line. These alternatives, however, are unlikely to provide an equal degree of access in terms of hours of operation and the range of options and programs available.

VII. MEANINGFUL ACCESS FOR INDIVIDUALS WITH LEP

The Department and its Responsible Entities covered by this policy must take reasonable steps to ensure meaningful access to the Departments programs and activities for individuals with LEP. Language assistance services are meaningful when they result in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals. The Department and its Responsible

¹ Web developers designing accessible webpages may find the following resources helpful in designing websites for accessibility: (1) Accessibility of State and Local Government Websites to People with Disabilities <https://www.ada.gov/websites2.htm>; (2) ADA Best Practices Tool Kit for State and Local Governments, Chapter 5 Addendum: Title II Checklist (Website Accessibility) <https://www.ada.gov/pcatoolkit/chap5chklist.htm> (3) Planning and Managing Web Accessibility <https://www.w3.org/WAI/impl/> (4) Easy Checks: A First Review of Website Accessibility <https://www.w3.org/WAI/eval/preliminary> (5) Template for Accessibility Evaluation Reports <https://www.w3.org/WAI/eval/template>



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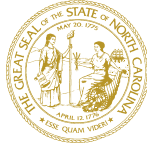
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Entities must provide free language assistance services to LEP individuals whom they encounter or whenever an LEP person requests language assistance services.

Effective Language Access Plan and Implementation Procedures

Each of the Department's divisions, offices, facilities, and other Responsible Parties must develop a language access plan with procedures consistent with the Department's policy. The US DOJ offers several technical assistance documents that the Department and its Responsible Entities may use in developing language access plans at [Language Access Planning | LEP.gov](https://www.lep.gov). At a minimum, a language access plan with procedures must:

1. Publicize the name and contact information of the Department and its Responsible Party's Language Access Coordinator.
2. Conduct a self-assessment of language access needs of individuals with LEP in the local service area and the resources available to serve.
3. Notify individuals with LEP about the availability of free interpreter services and how to request them in a language that they can understand.
4. Select qualified and competent language assistance services (interpreters and translators).
5. Translate vital documents, websites and digital platforms into frequently encountered languages using qualified human translators.
6. Identify individuals with LEP at the point of contact or service.
7. Ensure staff understand policy regarding use of family, friends and children as interpreters and translators.
8. Ensure individuals with LEP can access vital information posted on websites and digital services in a language that they can understand.
9. Record voicemail menus in customer service telephone lines in frequently encountered languages.
10. Record and tracking primary language spoken and the language assistance services provided at each contact.



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11. Monitor language access and the Responsible Party's language assistance measures.

Language Access Coordinator

The Department and Responsible Parties should appoint a Language Access Coordinator to ensure the procedures are carried out consistent with the Department's policy. Each Responsible Party should inform the Department's Language Access Coordinator about any challenges encountered when serving individuals with LEP. Appointing a Language Access Coordinator will greatly increase the likelihood of effective implementation and maintenance of a language access plan with procedures.

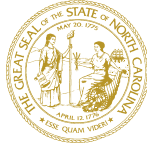
Language Access Self-Assessment

The Department and Responsible Parties must determine the language assistance needs of the LEP population in each service area and the language assistance resources available to serve them. Such assessment must include, but not be limited to the following four factors:

1. the number or proportion of individuals with LEP eligible to be served or likely to be encountered within the area serviced by the Department or its Responsible Party;
2. the frequency with which individuals with LEP encounter or contact with the Department or its Responsible Party's programs or activities;
3. the nature and importance of the program, activity, or service to people's lives; and,
4. the resources available to the recipient and costs.

Some Responsible Entities may collect primary language spoken in case management systems and client files. This data can be used in a self-assessment. Other data sources include:

1. U.S. Department of Justice site: <http://www.lep.gov/maps/> (offers mapping tools with American Community Survey data the provide information by state, county, and primary language spoken.)
2. U.S. Census Data <https://www.census.gov/data.html>
3. American Community Survey <http://www.census.gov/acs/>
4. Migration Policy Institute's National Center on Immigrant Integration Policy <http://www.migrationpolicy.org/>
5. School system data



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6. Reports from federal, state, and local governments
7. Community agencies
8. Translating and Interpreting Contract Services

Public Notifications for Language Access

The Department and Responsible Parties must take appropriate steps to inform all potentially eligible populations, applicants, recipients, community organizations, and other interested persons about the provisions of this policy in a language that they can understand. The dissemination of information must include, but not be limited to posting information in each local entity location, as well as the dissemination of written documentation explaining rights contained in this policy. Such notification must identify the name, office telephone number, and office address of the employee(s) responsible for the local entity's compliance with this policy.

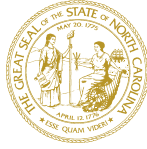
Additionally, the Department and Responsible Parties must post and maintain notices in frequently encountered languages of free language assistance services and how to request them on websites and digital services and in waiting rooms, reception areas, and other initial points of entries. These signs should invite individuals with LEP to identify as individuals needing language assistance services. The DOJ offers samples of translated tagline notices and language assistance notices, flyers and posters at [Translation | LEP.gov](http://Translation|LEP.gov).

Use of Qualified and Competent Language Assistance Services

Interpretation. The Department and Responsible Parties must ensure that effective interpretation services are provided to serve the needs of individuals with LEP. The provision of interpretation services must be prompt without undue delays. In most circumstances, this requires language assistance services to be available during all operating hours.

The Department and Responsible Parties are required to develop uniform procedures providing for language assistance service options at all levels of interaction with LEP individuals, including telephone interactions. This requirement may be met through utilization of paid interpreters, qualified bilingual employee(s), or qualified bilingual employees of other agencies or community resources. Telephonic interpreter services should only be utilized as a back-up system or when other qualified language assistance options are unavailable.

The Department and Responsible Parties must ensure individuals providing interpretation services meet the linguistic and cultural competency standards set forth below. The Department and Responsible Parties must take reasonable steps to screen interpreters and self-identified



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bilingual staff to verify that the contract interpreter and bilingual employee that serves as an interpreter is highly trained and:

1. Can fluently and effectively communicate in both English and the primary language of the LEP individual.
2. Can accurately and impartially interpret to and from such languages and English.
3. Demonstrate a basic knowledge of specialized terms and concepts used frequently in the provision of the local agency's services.
4. Demonstrates cultural competency.
5. Understands the obligation to maintain confidentiality.
6. Understands the roles of interpreters and the ethics associated with being an interpreter.

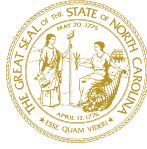
Refer also to the definition of "Qualified Interpreter" in the definitions section.

Bilingual Staff and Volunteers. The Department and Responsible Parties must ensure bilingual staff are competent to communicate directly with LEP individuals in their own language. Additionally, being bilingual does not necessarily mean that a person has the ability to interpret. If bilingual staff are also used to interpret between English speakers and individuals with LEP, or to orally interpret written documents from English into another language, they should be competent in the skill of interpreting.

The role of the bilingual employee must not conflict with the role of the interpreter. For example, a bilingual program specialist may not be able to perform effectively the role of an interpreter in a Fair Hearing and also carry out the duties to administer requirements at the same time, even if the program specialist were a qualified interpreter.

Family, Friends and Children as Interpreters. Individuals with LEP may provide their own interpreter; however, the Department and Responsible Parties must not require them to do so.

In all cases, when an individual with LEP prefers to use their own interpreter, the Department and Responsible Parties must first inform them in a language that they can understand about their right to free interpreter services and the potential problems for ineffective communication when using family and friends as interpreters. If the LEP individual still declines such services and requests the use of a family member or friend, the Department and Responsible Parties may



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utilize the family member or friend to interpret, but only if the use of such person would not compromise the effectiveness or services or violate the LEP individual's confidentiality. The local agency must monitor these interactions and secure a qualified interpreter to observe the communication situation or replace the family member if it appears there are problems with this arrangement.

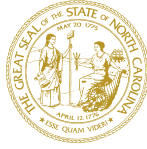
The Department and Responsible Parties must document in the LEP individual's file that an offer of interpreter services was made and rejected; that the individual was informed of potential problems associated with using friends or family members; the name of the person serving as an interpreter at the LEP individual's request; and the name of any qualified interpreter that may have observed or taken over the interpretation situation.

Only under unique, extenuating circumstances may a Responsible Party allow a minor (under the age of 18 years) to temporarily act as an interpreter. Reliance on children is especially discouraged unless there is an extreme emergency and no preferable qualified interpreters are available.

Under no circumstances can the Department or Responsible Parties require the individual with LEP to pay for interpretation services. Likewise, under no circumstances can the Department or Responsible Parties pay the family member or friend for interpreting for the individual with LEP.

Use of Qualified Interpreters at Hearings. The Department and Responsible Parties must provide a qualified interpreter for all respective state and local hearings if a party requests an interpreter or if the hearing officer determines that an interpreter is necessary. When the hearing is to be held with the assistance of an interpreter, the hearing officer must:

1. Examine the qualifications and competency of the interpreter;
2. Disqualify any interpreter determined by the hearing officer not to be competent for interpretation purposes;
3. Assure objective interpretation by, in the hearing officer's sole discretion, disqualifying interpreters who are:
 - a. Claimant's relatives, friends, or an authorized representative;
 - b. County staff who participated in making the decision complained of;
 - c. The county appeals representative;
 - d. Any other individual determined by the hearing officer to be detrimental to the hearing process or having a bias or the appearance of bias.



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Translation. Likewise, the Department and Responsible Parties must ensure anyone translating vital information for any of the Department’s programs and activities is qualified to do so. Many of the same considerations apply. However, the skill of translating is very different from the skill of interpreting, and a person who is a competent interpreter may or may not be competent to translate. Particularly where legal or other vital documents are being translated, competence can often be achieved by use of certified translators, though certification or accreditation may not always be possible or necessary.

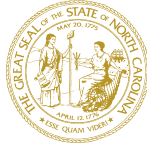
A qualified, competent translator is a highly trained individual who can render text from a source language into a target language while preserving meaning and adhering to generally accepted translator ethics and principles, including confidentiality. Competence can often be achieved by use of certified translators, though certification or accreditation may not always be possible or necessary. For those languages in which no formal accreditation currently exists, a particular level of membership in a professional translation association can provide some indicator of professionalism.

The DOJ provides technical assistance on useful tips on procurement of translation and interpretation services and skills testing resources such as the Interagency Language Roundtable at Language Access Planning | LEP.gov.

The Department and Responsible Parties must provide written materials in languages other than English where a significant number or percentage of the population eligible to be served or likely to be directly affected by the program needs services or information in a language other than English to communicate effectively. The Department and Responsible Parties must ensure that vital documents are translated into Spanish and frequently encountered languages and made available to LEP individuals accessing the Department’s programs and activities.

“Vital Documents” are those documents necessary for an individual to gain access to services or benefits, including but not limited to applications for benefits, consent forms, medical instructions, privacy and confidentiality notices, intake forms, notices of eligibility, and complaint forms. When such forms and other written material contain spaces in which the local agency is to insert information, this inserted information must also be in the individual’s primary language. When such forms are completed by applicants/recipients in their primary language, the information must be accepted and translated into English.

If it appears that a substantial number, defined as 5% of the served population or at least 1,000 people served by the local agency, of LEP individuals speak a language other than Spanish, the local agency must translate and provide vital documents in the appropriate language. If the primary language of an LEP individual is a language other than Spanish and the language does



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not meet this threshold for translation, the LEP individual must be informed in their own language of the right to oral translation (sight translation) of written notices. The notification must include, in the primary language of the LEP individual, the following statement:

IMPORTANT: IF YOU NEED HELP IN READING THIS, ASK THE AGENCY FOR AN INTERPRETER TO HELP. AN INTERPRETER IS AVAILABLE FREE OF CHARGE.

Language Access to Websites and Digital Services

DHHS and Responsible Parties must ensure that LEP individuals have meaningful access to its program websites and digital services such as online applications and Electronic Benefit Transfer account management systems, and web-based forms, and brochures. All vital information published online must be accurately translated into commonly encountered languages spoken by LEP individuals. This includes hyperlinks to vital information, dropdown boxes, webpages, PDF documents, and/or online forms. Multilingual tagline notices offering free language assistance must also appear on program websites and online platforms. An example of taglines published on ncdhhs.gov can be found here:

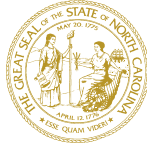
<https://files.nc.gov/ncdhhs/Nondiscrimination%20and%20Accessibility%20Requirements.pdf>. Other translated tagline notices can be found at <https://www.lep.gov/translation#toc-language-identification-and-i-speak-cards>.

LEP Access to Customer Service Telephone Lines

Individuals with LEP must have meaningful access to information provided by staff answering customer service telephone lines available to the public. The Department and Responsible Parties must include an English, Spanish, and other frequently encountered language option early within voice mail prompts or menu on customer service lines. It could also provide information about available language assistance services and how to get them. Staff answering the Department's or Responsible Party's telephone should have access to a telephonic language line service to communicate with the LEP individual without delay.

Identifying Individuals with LEP Who Need Language Assistance at the Point of Contact

The Department and Responsible Parties must Each determine the language assistance services needs of everyone with LEP at the point of contact. Techniques for determining the preferred language of communication at the first point of contact include the following:



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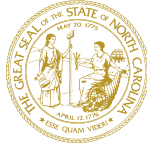
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- 1 Encourage individuals with LEP to self-identify posting multilingual notices that offer free interpreter services in prominent locations and on program websites.
- 2 Invite the individual with LEP to self-identify by presenting a multi-language identification card, a poster-size language list, or "I SPEAK" peel-off language identification card for indicating preferred languages. The DOJ website at www.lep.gov contains "I Speak Cards" used by several government agencies including the USDA and the U.S. Census Bureau at <https://www.lep.gov/translation>.
- 3 Utilize a telephonic interpreting service to identify the client's primary language if the individual with LEP does not speak or read any of these languages or contacts staff by telephone.
- 4 Offer free interpreter services to individuals with LEP.
- 5 In all cases, if an individual with LEP requests an interpreter, provide a qualified interpreter at no cost to the individual. A declaration of the client is sufficient to establish the client's primary language. Under no circumstances will the Department or Responsible Parties make this determination based solely on whether an individual with LEP can answer short questions or questions to which the answer requires only "yes" or "no" answers.
- 6 Keep records of past interactions with individuals with LEP to help staff identify the language assistance service needs.

Recording and tracking primary language spoken and the language assistance services provided at each contact.

Monitoring Language Access and Language Assistance Measures

The Department and Responsible Parties must collect language access data sufficient to determine compliance with Title VI and federal implementing regulations and guidance and with this policy. Each entity must develop a system for tracking and monitoring the number of LEP persons served, language preferences, translations provided, and other data points. To this end, the Department and Responsible Parties must:



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1. Ensure that case record documentation, including computerized records if appropriate, identifies the applicant's/recipient's primary language spoken and whether staff offered language assistance services.
2. Document the individual's acceptance or refusal of forms or other written materials offered in the individual's primary language.
3. Document the method used to provide interpreter services, e.g., assigned case worker is bilingual, a bilingual employee acted as interpreter, volunteer interpreter was used, or the LEP individual provided an interpreter. In the rare event that a minor is used as an interpreter, the local agency must document the unique and extenuating circumstances requiring temporary use of a minor in the case record.
4. Obtain a consent for the release of information from LEP individuals when individuals other than local agency employees are used as interpreters and document this in the case record.

VIII. STAFF DEVELOPMENT AND TRAINING

The Department and Responsible Parties must receive training regarding the requirements of this policy during any new employee orientation and during continuing training programs for existing staff. This includes but is not limited to all employees likely to have contact with LEP individuals and/or with individuals with disabilities and those in a supervisory capacity of any employee likely to be affected this policy. Effective training is one of the means of ensuring that there is not a gap between this policy, the Responsible Party's policies, and the actual practices of employees interacting with individuals with LEP and individuals with disabilities.

For language access requirements, training must cover the legal authorities and requirements to ensure meaningful access for LEP individuals, language assistance policies and procedures, resources available to support such procedures, methods of effective use of interpreters, and familiarization with the discrimination complaint process. Additionally, training must cover the statutory and regulatory requirements and access to available resources for ensuring equal opportunity participation and equally effective communication for individuals with disabilities. The Department will provide program guidelines and technical assistance upon request.