Ensuring Meaningful Access for Survivors with Limited English Proficiency

presented by
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Goals for today

1. Create awareness around improving accessibility of services for LEP survivors.

2. Support you in better understanding and advocating for language access to services.

3. Provide the tools and resources to support programs in developing an effective Language Access Plan.
Discussion Scenario - Diana
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1. What issues and concerns does this situation raise?

2. What support and services would be available for Diana in your community? What steps can be taken to help her in this situation?

3. What steps could be taken in your community to improve access to services and assistance for immigrant survivors or individuals with Limited English Proficiency?
Creating a Comprehensive Framework

Fundamental guidelines:

• DV violates the human rights of survivors & their children by creating unsafe & fearful environments.

• Their safety must be central to any work we do.

• Safety is unattainable unless we practice cultural and linguistic competency consistently and improve access at the organizational and individual level.
Well-Being of Women and their Families

“Everyone has the right to life, liberty and security of person”

- Article 3; Universal Declaration of Human Rights

• Safety
• Financial stability
• Health
• Education
• Legal stability (including immigration status)
National DV Hotline Survey

• Six-week survey in August of 2012
• 1,305 Latina callers participated in the survey
• 583 (45%) said they were foreign-born
• 39% of foreign-born Latinas said they were afraid of calling the police or going to court for help as a result of the general immigration situation

• 31% of Spanish speakers said they encountered language barriers in trying to seek services (1 in 4 callers had never reached out for services before calling the Hotline)
Access to Services for Undocumented Immigrants

• As a matter of law, undocumented immigrants have full access to domestic violence shelters, transitional housing and other in-kind services “critical for life or safety”

• Programs that turn away undocumented battered immigrants because of their status risk being charged with discrimination in violation of Federal laws
Access to services needs to be “meaningful access,” therefore it is necessary to ensure language access for individuals with Limited English Proficiency (LEP).
Who is a Limited English Proficient Individual?

- LEP persons are those individuals who do not speak English as their primary language and have a limited ability to read, write, speak or understand English.

- The Census revealed that 25.2 million persons over the age of five living in the United States (9% of U.S. population) spoke a language other than English and did not speak English “very well”.
  - Of those, 11 million did not speak English at all or spoke it poorly.
Growth in Population with LEP

- Number of LEP individuals in the United States grew by 80% from 1990-2010.

- Highest concentration of LEP individuals are found in the top 6 immigration-destination states (CA, TX, NY, FL, IL, NJ) that together represent 68% of the total LEP population.

- SE and SW states saw highest growth rates

- In Virginia, 14.7% of population speaks a language other than English at home
  - 61.5% of those also speak English very well
  - 31.5% speak English less than very well = 424,000 LEP individuals

http://factfinder2.census.gov/faces/tTabesServices/jsp/pages/productview.xhtml?pid=ACS_12_5YR_S1601
Linguistic Changes Over Time

• In 1990 the top 5 languages spoken by LEP individuals in the U.S.: Spanish, Chinese, French, Italian and German.

• In 2000: Vietnamese, Korean and Russian in positions 3-5; By 2010 Russian replaced by Tagalog.

• Different top languages between and within states.
  • Do you know what the 5 most common languages are in your jurisdiction?

• Of the 40 million foreign-born individuals in 2010, 52% were LEP; 48% spoke English.

• Children of immigrants learn English at very rapid rates; significant generational differences.
Language Access Issues

• Recipients of Federal funding must take reasonable steps to ensure “Meaningful Access” to those with Limited English Proficiency (LEP) under Title VI of the Civil Rights Act of 1964.

• Recipients of Federal funds are not allowed to discriminate based on race, color, or national origin.
Title VI of the 1964 Civil Rights Act

“No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

Section 601 of Title VI, 42 U.S.C. sec. 2000d
Implementation of Title VI

• The U.S. Supreme Court stated that one type of national origin discrimination is discrimination based on a person’s inability to speak, read, write or understand English (Lau v. Nichols (1974))

• President Clinton signed Executive Order 13166 in Aug. 2000: "Improving Access to Services for Persons with Limited English Proficiency.”

• Attorney General reaffirmed the Mandate in DOJ memo Feb. 2011
The Executive Order requires Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them. Agencies are supposed to develop an LEP plan.

The Executive Order also requires that the Federal agencies work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.
Who Qualifies as a Recipient of Federal Assistance

• Federal financial assistance includes grants and training. Sub recipients are also covered, when federal funds are passed on from one recipient to another (e.g., state funds that are a pass through of federal dollars).

• Recipients of federal funds range from state and local agencies, to nonprofits and other organizations.
If an organization gets only some federal funding to support a specific project or program, what part of the organization’s activities are affected by Title VI LEP requirements?

A. Only that project/program within the organization that receives federal funding.

B. Only projects specifically focused on immigration services or outreach to underserved communities.

C. All of that organization’s activities, including those not funded with federal dollars.
What Part of an Organization’s Activities are Covered under Title VI?

• Title VI covers a recipient's *entire* program or activity.

• This means *all* parts of a recipient's operations are covered. This is true even if only one part of the recipient receives the federal assistance.
What’s Required of Recipients of Federal Funds and Federal Agencies

Recipients and federal agencies are required to take *reasonable steps* to ensure *meaningful access* to their programs and activities by LEP persons.

The starting point is an individualized assessment that balances the following four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;

2. The frequency with which LEP individuals come in contact with the program;
Additional Factors

3. The nature and importance of the program, activity, or service provided by the program to people's lives; and

4. The resources available to the grantee/recipient or agency, and costs.

See LEP Policy Guidance issued by different federal agencies:
http://www.lep.gov/guidance/guidance_index.html
Remarks from Assistant General Attorney

Meeting of Federal Interagency Working Group on Limited English Proficiency 4/20/09:

“I want to point out 2 key areas of guidance... that applies across all agencies and recipients:

First, as time goes on, the bar of reasonableness is being raised. The need to show progress in providing all LEP persons with meaningful access increases over time..

The second cross-cutting point is that, even in tough economic times, assertions of lack of resources will not provide carte blanche for failure to provide language access. **Language access is essential and is not to be treated as a “frill” when determining what to cut in a budget...**

Group Question

True or False?

If my county or city has an “English-only” law, then my organization does not have to comply with Title VI LEP requirements. True or False?
What if my state or local jurisdiction has an “English only” law?

• Despite a state's or local jurisdiction’s official English-only law, Title VI and the Title VI regulations apply. Recipients continue to have a legal obligation under federal law to provide meaningful access for LEP persons (also true regardless of immigration status).

• State and local laws may provide additional obligations to serve LEP individuals, but cannot compel recipients of federal financial assistance to violate Title VI.
Systems Advocacy for Meaningful Access for Individuals with LEP

Ensuring meaningful language access should be part of a coordinated community response:

- Among DV/SA service providers
- Police
- Prosecutors
- Courts
- Social service providers
- Hospitals
Ensuring Quality of Language Access

• Accuracy and effective communication are critical in domestic violence situations.
• Do not rely on friends and family members to interpret for the LEP victim in important and sensitive interactions.
• Avoid using children as interpreters, especially in domestic violence cases.
• Being bilingual is not enough; interpreters should be trained, neutral, and abide by confidentiality and ethical standards.
• Important to ensure that vital documents are translated into the non-English language of each regularly encountered LEP group.
When DO the Courts have to provide interpreters?

The DOJ Guidance states: ... *When oral language services are necessary, recipients [of any federal funds] should generally offer competent interpreter services free of cost to the LEP person.*

For DOJ recipient programs and activities, this is particularly true in a courtroom, administrative hearing, pre- and post-trial proceedings, situations in which health, safety, or access to important benefits and services are at stake, or when credibility and accuracy are important to protect an individual's rights and access to important services (67 FR 41455, 41462).
Court Interpreters (cont’d)

• Charging LEP persons for interpreter costs or failing to provide interpreters can implicate national origin discrimination concerns.

• DOJ’s Guidance goes on to note: ...At a minimum, every effort should be taken to ensure competent interpretation for LEP individuals during all hearings, trials, and motions during which the LEP individual must and/or may be present. (67 FR 41455, 41471)
Language Access with Law Enforcement

• Critical Issues of Life and Safety

• Potential consequences for immigrant survivors who may be arrested as a result of inadequate language access
  • Secure Communities in every jurisdiction– sends fingerprints of arrestees to ICE
  • Importance of ICE Memo June 17, 2011: “Prosecutorial Discretion: Certain Victims, Witnesses and Plaintiffs”

• Education and advocacy with law enforcement
Story of Deisy Garcia

• Deisy lived in Queens, NY and filed multiple police reports with the NYPD claiming that she feared that her husband would kill her and her daughters.

• Deisy had spoken with the NYPD in Spanish and filed her reports in Spanish as well. Her complaints were never translated into English and as such, there was no further review of her complaints.

• Three complaints were filed by Deisy, and none of the times she filed a complaint did police actually arrest her ex-husband.

• In January 2014, Deisy and her two daughters were murdered.
Office of Civil Rights

• If a recipient of federal funds continues to deny meaningful access to LEP individuals a complaint can be filed.

• The Coordination and Review Section of the Civil Rights Division of the U.S. Department of Justice handles complaints.

http://www.justice.gov/crt/cor/complaint
Developing an Effective Language Access Plan

Is a proactive approach to assisting survivors with limited English proficiency it:

• Reduces the language access obstacles for survivors and advocates

• Makes advocate’s job much more efficient

• It’s the right thing to do

• Is legally required of federal funded programs
Elements of an Effective LEP Plan

• Demographic profile of the community
• Process for identifying LEP persons who need language assistance
• Identifying ways in which quality language assistance will be provided (for both oral and written information)
• Training staff and volunteers
• Outreach and Education
• Monitoring and updating LEP policy
Building Organizational Access

ARE YOU PREPARED?

Best strategy for providing meaningful access is to be prepared and develop a Language Access Plan.
Which Languages are Spoken in Our Community?

Step 1.
Identify the number or proportion of LEP individuals eligible to be served or likely to be encountered by your program.

Who are the people in the community you serve?
Which Languages are Spoken in Our Community?

1. Review US Census data for current immigrant populations, also consider predicted populations.  
   http://www.census.gov/2010census/

2. Review US Census data on the use of languages in the US.  
   http://www.census.gov/hhes/socdemo/language/ and in your state,  

3. For information on local immigrant populations, conduct a Google search using key terms such as:  
   English limited proficiency, immigrant and refugee populations in your town or city.

4. Local government, school districts, local colleges and universities are also great resources for obtaining data.
Which Languages are Spoken by Those Who Come to Our Program?

Step 2.
Identify the top 3 to 5 languages (other than English) spoken by participants who come to your program.
Which Languages are Spoken by Those Who Come to Our Program?

1. Review your program’s demographic data to see which LEP survivors have contacted your organization and with what frequency.

2. Pull numbers from all aspects of your program – hotline, shelter, support groups, outreach materials, etc.

3. Consider that LEP survivors may not be aware of your program or believe that it may not be accessible to them.
How Are We Currently Providing Language Access?

**Step 3.**
Assess how you are currently serving speakers of the languages identified in Steps One and Two.

- Bicultural/bilingual staff
- Co-advocacy agreement
- In-person interpreters
- Language line
How Are We Currently Providing Language Access?

1. Identify your organization’s strengths and weaknesses in providing meaningful access through language services.

2. Engage the entire staff in this process.

3. Conduct a confidential survey to ask staff their own language skills as well as which languages they need more assistance accessing.

4. Use the results to drive policy, planning, hiring and training.
Developing a Plan for Improvement

Step 4.
Since the services you provide are critical to a survivor’s physical and emotional safety, you must take reasonable steps to ensure that LEP survivors have meaningful access to your services.
Sexual and domestic violence programs are often critical for survivor safety and, therefore, have a greater obligation to provide language services.

Options:

- Hiring bicultural/bilingual advocates
- Hiring interpreters
- Contracting with a language line
Allocating and Building Resources

Step 5.
Since providing meaningful access to your program is required by federal law, you must find a way to fund the strategies you identified in Step Four.

Reality is...regardless of budget size, you need to consider how you will provide access to services and not whether you will provide them.
Allocating and Building Resources

1. Develop a strategic plan including goals and benchmarks.

2. Take steps to build capacity.

3. Brainstorm funding opportunities.

4. Develop concrete short-term and long term goals.

5. Identify staff roles and responsibilities in carrying tasks out.
Formalizing the Plan

Step 6.
Now that you have identified the language services you will provide and to whom, develop a formal Language Access Policy.
Formalizing the Plan

1. Articulate what you are trying to accomplish.

2. Describe how meaningful access supports are connected to your organization’s mission.

3. Articulate your reasons for establishing a policy.

4. Develop concrete polices and procedures that instruct and guide staff.

5. Specify when and how language services will be provided.

6. Incorporate how staff will identify the language a person is speaking.

7. Find interpreters.

8. Assess an interpreter’s skills.

Implementation

Step 7.
Consider the implementation of your Language Access Plan.

Consider how this will be implemented throughout the organization (job descriptions, employee handbook, etc.)
Implementation

1. Which staff members will take responsibility for what tasks?

2. Maybe helpful to have a definitions section for terms such as meaningful access, interpreter, translation.

3. Are there other policies that you need to establish?
Staff Training

Step 8.
Now that your plan is developed and policies, protocols and procedures updated, make sure your staff is familiar with and trained on your language access plan.
Staff Training

1. Comprehensive – relevant law, organizational assessment, language access plan, relevant policies, protocols and procedures and what to do when an unexpected language is encountered.

2. Proper way to communicate with a survivor using an interpreter, and practice doing so.

3. Clear guidelines prohibiting the use of family members, children and other participants as interpreters.

4. Mechanism for training new staff as they are hired, and refreshers as circumstances change or new tools or resources are identified.
Step 9.
How will you notify LEP survivors of their rights to language access and the services you have available to them?
Community Outreach

1. Be inclusive. Invite culturally specific organizations to meet to discuss the services available and to assess the barriers to services for those communities.

2. Build relationships with allies in the community.

3. Hold community informational workshops on topics important to community members, i.e. healthy relationships, legal remedies, healthy child development, etc.

4. Create a PSA to be featured on culturally specific radio stations or public access stations.

5. Go to where community members are: churches, hair salons, Laundromats, schools, community centers.

6. GO TO WHERE THE COMMUNITY IS. DON’T EXPECT THEM TO COME TO YOU.
Step 10. Now that you have a comprehensive plan to provide meaningful language access to LEP survivors, follow up with a built-in plan to monitor the implementation.
Monitoring and Compliance

1. Establish an annual review of your plan.

2. Examine the following:
   - How have the demographics changed?
   - How has your plan affected services?
   - How did you respond to language needs as they arose?
   - How do you address unexpected languages?
   - What should you adapt or change for next year?
   - How are you progressing on your language access plan to build capacity in the long-term, i.e. fundraising, participation satisfaction, staff hiring and training, etc.

3. Include the input of staff, participants and partners engaged in the plan by utilizing listening sessions, surveys, interviews and other feedback tools to gather information on how LEP survivors feel about the services they received and their ability to fully access those services.
THANK YOU
## Contact Information

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