§1557 of the Affordable Care Act and Language Access
A monolingual Vietnamese speaking Mom is concerned about her daughter Sonia’s vision. Sonia is bilingual English/Vietnamese. Sonia is 12 years old. Mom is given a referral to an eye clinic by daughter’s primary care provider. Mom calls the Eye Clinic and states, “Hello, Vietnamese please.” The Eye Clinic’s receptionist responds, “Oh, sorry we don’t have anyone that speaks Vietnamese.” Mom repeats, “Vietnamese please.” Eye Clinic hangs up. Mom, asks Sally, a friend, to help her call Eye Clinic to make an appointment. Sally calls Eye Clinic and explains that she is calling for Mom who needs an appointment for Sonia. Eye Clinic says that they can see Sonia at 2:00 p.m., on Friday. Sally tells Eye Clinic that mom will need an interpreter. Eye clinic states that daughter’s Electronic Medical Record indicates that Sonia speaks English so everything should be fine. Sally says o.k.

- Please identify any concerns?
Scenario Continued

Mom takes daughter to the eye appointment. Mom waits in the waiting room and daughter has the eye appointment. Daughter comes out and says, “I’m good mom. Let’s go.”

- What if I tell you that the 12 year old has autism.
- Eye doctor is unaware of this developmental delay.
- Mom can’t communicate this.
- What if I tell you that Mom is very concerned because she has a history of blindness in her family. Mom’s brother, father and aunt all went blind.
- Mom has not spoken to her 12 year old about this family history because she doesn’t want to scare her daughter.
Train staff to understand the importance and consequences of 1557

- Better Health, Better Care, Lower Costs
- Reduces Risk
- 1557 allows for individuals to file a complaint:
  - in court for compensatory damages
  - US HHS OCR resulting in consent decree, fines, or cuts for noncompliance
  - OHA OEI education/outreach, remedial action notices, contract termination
  - BOLI

Staff should understand the potential consequences of noncompliance and be well trained in accessing an interpreter quickly and efficiently.
What is § 1557

• It is a section of the Patient Protection and Affordable Care Act which was enacted in 2010 by the US legislature.
• The rules which implement 1557 require any health care entity receiving federal financial assistance to engage in certain practices to prevent discrimination on the basis of age, race, color, nationality, or gender, including gender identity.
• We are going to focus on the language access regulations today.
SECTION 1557 of the ACA & Language Access

- Coordinator
- Qualified Interpreter
- Language Assistance Services
- Taglines: Top 15 LEP Languages
- Nondiscrimination Notice
- Covered Entity

Discrimination
Covered Entity?

An establishment that operates a health program or activity, any part of which received Federal Financial Assistance from the US Department of Health and Human Services.

Examples:

- Hospitals, public health departments, dentists, therapists, primary care providers, pediatricians, community health centers, nursing facilities, residential or community-based treatment facilities.

- If the health program is principally engaged in health related services then the regulations apply to the entire entity not just the health care program. For example because OHA is principally engaged in health related services 1557 applies to every part of the agency.
1557 requires providers to post

– a notice of nondiscrimination and
– language access taglines in at least the top 15 languages spoken in the state

- in conspicuous physical locations where the entity interacts with the public
- in a conspicuous location on the covered entity’s Web site accessible from the home page
Nondiscrimination Policy

ENGLISH
Do you think the Oregon Health Authority (OHA) has treated you unfairly?

OHA must follow state and federal civil rights laws. It cannot treat people unfairly in any of its programs or activities because of a person’s:

- Age
- Color
- Disability
- Gender identity
- Marital status
- National origin
- Race
- Religion
- Sex
- Sexual orientation

Everyone has a right to enter, exit and use buildings and services. They also have the right to get information in a way they understand. OHA will make reasonable changes to policies, practices and procedures by talking with you about your needs.

To report concerns or to get more information, please contact the diversity, inclusion and civil rights executive manager one of these ways:

- Web: www.oregon.gov/OHA/DEI Email: OHA.PublicCivilRights@state.or.us
- Phone: 1-844-882-7889, 711 TTY
- Mail: Office of Equity and Inclusion Division
  421 SW Oak St, Suite 750, Portland, OR 97204

You also have a right to file a civil rights complaint with the U.S. Department of Health and Human Services Office for Civil Rights. Contact that office one of these ways:

- Web: www.hhs.gov Email: OCRComplaint@hhs.gov
- Phone: 1-800-368-1019, 1-800-537-7697 (TDD)
- Mail: 200 Independence Ave., SW, Room 509F HHH Bldg.
  Washington, D.C. 20201

SIMPLIFIED CHINESE/简体中文
您是否认为俄勒冈州卫生局 (OHA) 是对您不公平待遇？

OHA必须遵守州和联邦民事权利法律。它不能因为以下方面而在其任何计划或活动中对任何人给予不公平待遇：

- 年龄
- 性别认同
- 种族
- 性取向
- 身体残障
- 国籍
- 种族
- 宗教
- 性别
- 性取向

RUSSIAN/РУССКИЙ
Считаете ли вы, что сотрудники Управления здравоохранения штата Орегон (OHA) относились к вам неправильно?

Сотрудники Управления OHA обязаны следовать законодательству о гражданских правах, принятому штатом и федеральным правительством. Сотрудники Управления не вправе применить неправомерное отношение к кому-либо в рамках программ и мероприятий на основании следующих характеристик участников:

- возраст
- цвет кожи
- национальное происхождение
- религиозное убеждение
- гендерная идентичность
- семейное положение
- расовая принадлежность
- сексуальная ориентация
- национальное происхождение
- пол

Каждый участник надел правом пользоваться помещениями программы, а также регистрироваться, пользоваться и отказываться от участия в программе. Участники также имеют право получать информацию в том виде, который им более понятен. Управление OHA вносит добросовестные изменения в правила, деятельность и порядок выполнения программ, изучив ваши потребности при личном разговоре с вами.

Чтобы сообщить о бесспорных ваших вопросах или получить дополнительную информацию, пожалуйста, обратитесь к управляющему по вопросам культурного многообразия, интеграции и защите гражданских прав, используя один из следующих способов:

- В Интернете: www.oregon.gov/OHA/DEI Email: OHA.PublicCivilRights@state.or.us
- По тел.: 1-844-882-7889 (репетер 711)
- По тел.: 1-844-882-7889, 711 TTY
- По тел.: 1-800-537-7697 (телефон для слабовидящих)
- По тел.: 1-800-368-1019, 1-800-537-7697 (телефон для слабовидящих)
- По тел.: 200 Independence Ave., SW, Room 509F HHH Bldg.
  Washington, D.C. 20201

SOMALI/SOMAALI
Ma u malaymaysaa in Maamulka Caafimaadka Oregon (OHA) ay si aqoonsan ah kuula dhaqeem?

OHA waa in ay raadkaa dhaqanka fududka iyo gobbalka ee xusuufka dadweynaha. Daalka si xaqabro ah ulama dhaqmi karaan mid kasta oo ka mid ah banaaniga iyo xaydo sobotyo tahay qofka;

- Da'diisa
- Wuxuu isku ugu qoran yahay
- Asalkaasa
- Dookhisa
- Madaahinta
- Xudaahinta
- Dibkaa
Language Access Services Policy

Everyone has a right to know about and use Oregon Health Authority (OHA) programs and services. OHA provides free help.

Some examples of the free help OHA can provide are:
- Sign language and spoken language interpreters;
- Written material in other languages;
- Braille;
- Large print;
- Audio and other formats.

If you need help, please contact the Language Access Services program coordinator at one of these ways:
- Web: www.oregon.gov/OHA/GEI
- Email: LanguageAccess.info@state.or.us
- Phone: 1-844-882-7889, 711 TTY
- Mail: Office of Equity and Inclusion Division, 421 SW Oak St., Suite 750, Portland, OR 97204

BOHNSIAN / BOHANSKI

Prijavite se za podršku na adresu:

www.oregon.gov/OHA/GEI

Email: LanguageAccess.info@state.or.us

Telefon: 1-844-882-7889, 711 TTY

Office of Equity and Inclusion Division, 421 SW Oak St., Suite 750, Portland, OR 97204

CAMBODIAN / វេទប្រយោជនៈ

លេខទូរស័ព្ទការអំពូលជាមួយប្រទេសជាច្រើនទៀត: 1-844-882-7889, 711 TTY

Office of Equity and Inclusion Division, 421 SW Oak St., Suite 750, Portland, OR 97204

CHIJUKESE / CHIJUKESE

Oumkum Ek Plereanwek Amnini Awerwe non Fouam Fendam

Nelen aren marim ne rono akb es ake pleramem anis fan semen en e Oregon Health Authority (OHA). Ewe OHA nev akeva anis evee karo.

Esie ake nan ming no kotoet ee e OHA ee kamo:
- Chon fes no osin ("sign language") no koma;
- Ewch tampa mei translatsin no focus fesam;
- "Braille";
- Mox mei moreet vitia.

Esie ake am en ewo anga panae no ei maris en e Oregon Health Authority (OHA)

FUSI / FUSI

Gala viruma, gana mi siniyina, gana nian canit a Oregon Health Authority (OHA)

FRENCH / FRANÇAIS

Politique concernant les langues d’accès aux services

Chacun a droit d’informer et d’utiliser les services et programmes de l’Assurance-sante de l’Oregon (OHA). L’OHA met gratuitement à disposition plusieurs types d’aides.

En voici quelques exemples:
- Intelligence en langue des signes et en langues étrangères;
- Documents et formulaires traduits en d’autres langues;
- Impression en braille;
- Impression en gros caractères;
- Format audio et audio.

Si vous avez besoin d’aide, veuillez contacter le coordinateur du programme sur les langues d’accès aux services, en utilisant l’un des moyens suivants:
- Page web: www.oregon.gov/OHA/GEI
- Email: LanguageAccess.info@state.or.us
- Téléphone: 1-844-882-7889, 711 TTY
- Adresse: Office of Equity and Inclusion Division, 421 SW Oak St., Suite 750, Portland, OR 97204
<table>
<thead>
<tr>
<th>Language Assistance Services</th>
<th>OHA Nondiscrimination Policy</th>
<th>OHA Request for Modification Policy</th>
<th>Individual (Public) Civil Rights</th>
<th>OHA Affirmative Action Plan</th>
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<td>Vietnamese / Tiếng Việt</td>
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<td>Vietnamese / Tiếng Việt</td>
</tr>
</tbody>
</table>
1557 requires that providers include a notice of nondiscrimination and language access taglines in all documents that are “significant”

• Each provider needs to establish criteria that they use to determine what is “significant” and then apply it consistently when making a determination on whether these notices are required
Considerations for defining “significant”

- Is the person required to fill out the document or sign the document?
- Does the document contain critical information about benefits; i.e. changes to benefits such as inclusion of something previously uncovered?
- Does the document contain critical information about billing?
- Does the document contain critical information about pharmacy benefits?
- Does the document talk about the member’s right to do something?
- Is the document about consent to care?
- Does the document contain provider information?

- If any of the above is “yes” then it is likely “significant” and must include a notice and taglines.
When the document is deemed a significant but is a postcard or pamphlet then a shorter notice and only the top 2 LEP languages are required.

If it is not significant based on consistent criteria developed by the covered entity then the notice and taglines are optional.

Best practice would be to error on the side of including the statement.
OHA’s Nondiscrimination Policy and Language Access Statement Insert for significant communications is in 24 languages.

<table>
<thead>
<tr>
<th>English</th>
<th>Arabic</th>
<th>Bosnian</th>
</tr>
</thead>
<tbody>
<tr>
<td>Burmese</td>
<td>Cambodian</td>
<td>Chuukese</td>
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<td>Farsi</td>
<td>French</td>
<td>German</td>
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<td>Japanese</td>
<td>Korean</td>
<td>Lao</td>
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<td>Marshallese</td>
<td>Oromo</td>
<td>Pohnpeian</td>
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<td>Russian</td>
<td>Simplified Chinese</td>
</tr>
<tr>
<td>Somali</td>
<td>Spanish</td>
<td>Thai</td>
</tr>
<tr>
<td>Traditional Chinese</td>
<td>Ukrainian</td>
<td>Vietnamese</td>
</tr>
</tbody>
</table>
OHA has a fillable notice and taglines in 24 languages
Google DHS/OHA Publications and Forms
Type in 2993A
The form was created to be at a 6th grade reading level
This is an optional form
Language Assistance

• Must be provided to patients/family members/spouses/partners to individuals eligible to be served or likely to be encountered in its health programs and activities.

• 1557 mandates that providers take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others in health program and activities {demands parity}.

• 1557 requires that individuals with LEP receive “meaningful access”
  – The ability to use services and benefits comparable to those enjoyed by individuals without LEP. It is achieved by eliminating communication barriers and ensuring that the client or potential client can communicate effectively. Interpreter services are one possible tool.
## Qualified Interpreters:

| Oregon | Individuals who is readily able to:  
(a) Communicate with a person with Limited English Proficiency (LEP)  
(b) Accurately interpret the oral statements of a person with LEP or the statements of a person who communicates in sign language into English.  
(c) Sight translate documents from a person with LEP.  
(d) Interpret the oral statements of other persons into the language of the person with LEP or into sign language.  
(e) Sight translate documents from English into the language of the person with LEP (ORS 413.550). |

| ACA § 1557 | For an individual with a Disability: interpreter who via a remote interpreting service or an onsite appearance adheres to generally accepted interpreter ethics principles, including client confidentiality and is able to interpret effectively, accurately and impartially both receptively and expressively using any necessary specialized vocabulary terminology and phraseology.  
For an individual with LEP: interpreter who via a remote interpreting service or an onsite appearance adheres to generally accepted interpreter ethics principles, including client confidentiality; has demonstrated proficiency in speaking and understanding both spoken English and at least one other spoken language; and is able to interpret effectively, accurately, and impartially, both receptively and expressly, to and from such languages and English, using any necessary specialized vocabulary, terminology and phraseology.  
Providers must meet the requirements of both state and federal laws. |
Video Remote Interpreting (VRI)

1557 supports the use of qualified phone and video interpreters to help providers deliver timely language access to patients with disabilities and LEP patients – with the caveat that video interpretation must meet the quality standards set for ASL interpretation by the Americans with Disabilities Act:

- Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication.
- A sharply delineated image that is large enough to display the interpreter’s face, arms, hands, and fingers, and the participating individual’s face, arms, hands, and fingers, regardless of his or her body position.
- A clear, audible transmission of voices.
- Adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the Video Remote Interpreting.
1557 Coordinator & Grievance Process

- 15 or more employees?
  - Must designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under 1557
  - Must have a grievance procedure
# Quick Overview on 1557 & Language Access

<table>
<thead>
<tr>
<th>Mandates</th>
<th>Grants</th>
<th>Prohibits</th>
<th>Requires</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Posting Notices of Nondiscrimination and signage explaining the availability of language services in the state’s top 15 non-English languages</td>
<td>• Individuals a private cause of action to sue covered entities that violate 1557</td>
<td>• Minor children from interpreting except in limited emergency situations</td>
<td>• Language access parity for individuals with disabilities</td>
</tr>
<tr>
<td>• Using “qualified interpreters”</td>
<td>• A patient’s family, spouse, or partner access to an interpreter even if the patient does not need one</td>
<td>• Adult family/friends from interpreting except in limited emergency situations or the patient specifically requests it</td>
<td>• Provision of meaningful access to each individual with limited LEP eligible to be served or likely to be encountered</td>
</tr>
<tr>
<td></td>
<td>• Healthcare staff from interpreting unless they are qualified and interpreting is an official job duty except in limited emergency situations</td>
<td>• Healthcare staff from interpreting unless they are qualified and interpreting is an official job duty except in limited emergency situations</td>
<td>• Standards for <strong>all</strong> video remote interpretation to comply with those set for ASL VRI in the ADA</td>
</tr>
</tbody>
</table>

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Contact Information

Mavel Morales
Civil Rights Investigator
971-673-2000
711 TTY
mavel.morales@state.or.us