

Serving Immigrant Survivors or Survivors with Limited English Proficiency

Tennessee Domestic Violence Shelter Best Practices Manual / Section I



Laws Regarding Services Immigrant Survivors or Survivors with Limited English Proficiency

VAWA:

The Violence Against Women Reauthorization Act of 2013, which President Obama signed on March 7, 2013, amends the Violence Against Women Act (VAWA) of 1994 by adding a grant condition that prohibits discrimination by recipients of certain Department of Justice funds. VAWA 2013 maintains important protections for immigrant survivors of abuse, while also making key improvements to existing provisions including strengthening the International Marriage Broker Regulation Act and the provisions on self-petitions and U-visas.

FVPSA:

To be in compliance with the federal FVPSA Reauthorizing Legislation, 2010, programs that receive FVPSA funding must be accessible without discrimination on the basis of age, disability, gender, race, color, national origin, or religion. Accessibility is a broad requirement that includes offering shelter and all core services to victims. All victims of domestic violence, **regardless of citizenship, legal status**, or tribal affiliation are to have the same access to services without the need to produce documentation of residency and/or citizenship.

Programs must be able to assist victims of domestic violence that have Limited English Proficiency (LEP), are Deaf, or are hard of hearing. Using children or other family members to interpret for adult victims is not a best practice and can

The VAWA grant condition reads as follows:

*No person in the United States shall, on the basis of actual or perceived race, color, religion, **national origin**, sex, gender identity (as defined in paragraph 249(c)(4) of title 18, United States Code), sexual orientation, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under [VAWA], and any other program or activity funded in whole or in part with funds appropriated for grants, cooperative agreements, and other assistance administered by the Office on Violence Against Women.*

compromise safety. The federal government's website addressing limited language proficiency, LEP.gov, provides additional information on ensuring language access.


(Navigating the Family Violence Prevention and Services Program, US Department of Health & Human Services, 2012)

VOCA:

Section 1407 of the Victims of Crime Act (VOCA) of 1984 prohibits discrimination on the basis of race, color, national origin, religion, sex, or disability in VOCA funded programs or activities (42 U.S.C. § 10604). No person shall on the ground of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under VOCA.

Rules of Department of Finance and Administration, Chapter 0620-3-6 Tennessee Family Violence Shelter Standards:

People who meet the individual eligibility requirements for family violence shelter and/or shelter services set forth in section 0620-3-6-.02 should receive services regardless of national origin. Section 0620-3-6-.07 Program Administration states, "The program must have a written non-discrimination policy with regard to sex, race, religion, sexual preference, national origin, disability, age or marital status in administering the program and in determining eligibility for the provision of service."



The eight core services as listed in the shelter standards must be provided for victims of family violence in a family violence program regardless of the victim's immigration status or primary language. Those eight core services are: shelter, telephone crisis hotline, referral, counseling for family violence victims, advocacy for family violence victims, transportation arrangements, follow-up, and community education.

Dynamics of Abuse in Immigrant Victims

Research among immigrant women who have experienced domestic abuse in the United States found that immigrant victims often have experienced high numbers of traumatic events in their lives separate from and in addition to the domestic abuse, over 34% experienced sexual assault perpetrated by someone other than their abuser and 22% were present when another person was raped, beaten, or killed.

(Dutton, Hass, and Ammar, Battered Immigrant Women's Willingness to Call for Help and Police Response, 2003; Orloff, Dutton, and Ammar, Use and Outcome of Civil Protection Orders by Battered Immigrant Women in the U.S., 2008)

Being an immigrant significantly increases vulnerability to recurring sexual assault. A study conducted among school-aged girls found immigrant girls are almost twice as likely as their non-immigrant peers to have experienced recurring incidents of sexual assault (*Orloff, 2013*).

Research has also found the Latina college students experience the highest incidence of

attempted rape as compared to White, African-American, and Asian women college students (Orloff, 2013). This may stem from younger immigrant girls being actively targeted by sexual assault perpetrators who see them as legally and socially vulnerable. Immigrant girls and women, particularly those with undocumented or temporary immigration status, often are afraid to report crime victimization to law enforcement officials out of fear that such reports will lead to deportation. In addition to their legal vulnerability, their social vulnerability may stem from fears about the impact that disclosure of sexual assault may have on their relationships with their cultural community or family.

Immigrants occupy a precarious position within the broader community, which adds to their social vulnerability. Many immigrants experience racism, harassment, and oppression based solely on their identity as an immigrant, regardless of legal status. This oppression is often ingrained within a community in such a way that the prejudices are systemic in nature.



For instance, we have seen communities in Tennessee release statements and pass resolutions declaring that undocumented immigrants are not welcome in their cities. Resolutions and statements of this type have chilling effects on immigrant families trying to build their lives in Tennessee. Rather than fostering trust and public safety, these resolutions scare undocumented families away from seeking essential services and reaching out for help with issues of violence and abuse.

(Empowering Survivors: Legal Rights Of Immigrant Victims Of Sexual Assault, Orloff, 2013; Tennessee Immigrant and Refugee Rights Coalition)

As difficult as it can be for domestic violence victims in general to reach out for help, the difficulty is compounded for victims who are immigrants. These clients may be afraid that any contact with law enforcement or other local authorities will lead to abuse, harassment, or the very real potential for the separation of their families. Victim service agencies should ensure that their staff understand how best to meet the needs of - and provide medical and legal advocacy to - immigrant victims of domestic violence and sexual assault. Culturally and linguistically appropriate services are especially important when serving immigrant victims in rural, farm worker, and other isolated communities where non-English speaking immigrant victims may otherwise have difficulty accessing services. Advocates should be prepared to assist limited English proficient victims in assuring that hospitals, police, prosecutors, courts and other service providers use interpreters certified in the victim's language when interacting with these clients.

(Empowering Survivors: Legal Rights Of Immigrant Victims Of Sexual Assault, Orloff, 2013)

For immigrant victims, the complexity of living in the United States while trying to maintain cultural connections to one's native country can be difficult. This cultural tension can affect the shape and detail of victims' attitudes toward sexual assault and domestic violence. Pressures to assimilate while struggling to maintain cultural identity, and different attitudes about domestic and sexual violence in both cultures, make it difficult to anticipate how immigrant victims will respond to violence. For example, many immigrants from traditional societies in Africa, Asia, and the Middle East believe that certain issues should be resolved within the household or

ALWAYS consult an immigration attorney if the person you are helping is not sure of their immigration status, or if you are unsure about what resources they are eligible for in your community. The Tennessee Coalition's Immigrant Legal Clinic is available as a resource to agencies across Tennessee.

community, and not through the involvement of law enforcement or the criminal justice system. Other immigrant victims feel unsafe disclosing an assault to anyone within the social fabric of their community. Responses to abuse vary among cultures and individuals.

(Decker, Raj, and Silverman, Sexual Violence Against Adolescent Girls: Influences of Immigration and Acculturation, 2007; Erez, Immigration, Culture Conflict and Domestic Violence/Woman Battering,

2002; Empowering Survivors: Legal Rights Of Immigrant Victims Of Sexual Assault, Orloff, 2013)

Without culturally sensitive intervention, an immigrant victim of domestic violence may feel that they have no choice but to stay in an abusive relationship. Immigrant victims face many barriers to seeking and receiving assistance. These barriers are cultural, economic, practical and legal.

Keep in mind that immigrant victims:

- May be more likely to live in seclusion – they may have immigrated far from family and friends, not speak English, work, or have access to transportation
- May have come from cultures that don't talk about domestic violence, and may believe that the U.S. legal system does not apply to them
- May be ostracized by their family or community if they reveal the violence
- May not be able to utilize available resources because the services are not offered in their language and interpreters are not available
- May find that services in their community are not culturally appropriate
- May fear the criminal justice system and its representatives
- May rely on male family members to interact with the public

NEVER contact the Immigration and Customs Enforcement (ICE), Citizenship and Immigration Services (CIS) or Customs and Border Protection (CBP) to verify a person's immigration status. Contact an immigration attorney or the Tennessee Coalition's Immigrant Legal Clinic so you don't put an individual survivor in jeopardy of being deported.

- May fear that their children will be taken from them by “the State”
- May fear that the person abusing them will be deported if they report the abuse, thereby eliminating their only source of income
- May be threatened with deportation by their abuser to prevent them from seeking help

- May fear backlash from their family or community for speaking about abuse

Although victims' immigration status may present certain challenges, victims do have rights.

- They *do not* need to be a citizen or have documentation to file an Order of Protection
- They have the right to keep their immigration status *private* if they reach out for shelter and/or advocacy services
- Injured immigrant victims may seek emergency treatment at the nearest medical facility
- Crime victims are not required to report their immigration status to law enforcement.

(*Guide For Advocates Working With Immigrant Victims Of Domestic Violence*, The Delaware Domestic Violence Coordinating Council)

Serving Survivors who Speak Limited or No English



Some immigrants whose first language is not English may experience challenges in overcoming language barriers in the United States. A lack of qualified interpreters in victim services programs, including trained bilingual advocates, may significantly impede victims' ability to access the resources they need. Lack of language access services may also constitute a violation of federal law. Title VI of the Civil Rights Act of 1964 requires all organizations receiving federal funding to provide equal benefits to all people,

regardless of race, color, or national origin. The goal of language access planning is to ensure that your agency communicates effectively with all individuals who might seek your services. This requires ensuring effective communication at all points of contact between a limited English proficient (LEP) person and your agency.

For survivors with limited English proficiency, a corresponding lack of interpreter and/or language services prevents their access to the same benefits, services, information, or rights that others receive.

Creating a Language Access Plan for your Agency- The Basics:

- Conduct a self-assessment to determine what contact your agency has with LEP populations.
 - Self-assessments identify language service needs of your community, the ways in which LEP individuals interact with your agency, and evaluate the existing resources your agency has to meet these needs.

- Develop policy, implementation plan, and procedures for language access.
 - Policy should be designed to require the agency and staff to ensure meaningful language access.
 - An implementation plan should describe how your agency will meet these service delivery standards. This includes:
 - How you will address the needs identified in the self-assessment.
 - How you will hire or contract with qualified interpreters.
 - How you will ensure qualified translation of critical documents.
 - How you will provide notice of language services.
 - How you will train staff on policies and procedures.
 - Procedures include the ways in which your agency will deliver services to LEP individuals and gather outcomes data.

- Monitor, evaluate, and update the agency's language access plan to ensure effectiveness and that it meets the changing needs of your community.

Self-Assessment

Any interaction your agency has with the public is an opportunity to interact with LEP individuals. This includes interaction with shelter residents, hotline calls, outreach programs and community meetings, website and social media, agency brochures, and other marketing. The ways in which your agency interacts with the public informs where you may need to make changes in order to ensure meaningful access for LEP individuals.

Programs should also consider identifying the segments of your community that may speak languages other than English. For the self-assessment to be accurate, it must include all communities that are eligible for services or are likely to be impacted by the organization's mission. This would include all counties that your organization receives grant funding to serve. Your agency may determine the linguistic data of your communities by reviewing data available from federal, state, local, and community-based organizations.

See the *U.S. Department of Justice Civil Rights Division, Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs*, in the 'resources' section of this chapter for a self-assessment checklist and additional tools.

Consider outreach to agencies within your service area that are



servicing and/or doing considerable outreach to immigrant and LEP community members. These agencies can help you to understand LEP populations and the emerging needs and issues within your community.

The *U.S. Census Bureau* through its *American Community Survey (ACS)* maintains statistics on the linguistic composition of LEP individuals. <http://www.census.gov/hhes/socdemo/language/data/index.html>

The *U.S. Department of Education* maintains a *Civil Rights Data Collection*, which has information from the nation's school districts including student enrollment and educational programs and services disaggregated by race, ethnicity, sex, limited English proficiency, and disability. <http://ocrdata.ed.gov/>

The *National Center for Education Statistics* has information on children who speak a language other than English at home. <http://nces.ed.gov/fastfacts/display.asp?id=96>

The *Federal Interagency Working Group on Limited English Proficiency Website* also has demographic information http://www.lep.gov/demos_data.html



Providing Language Services

Effective communication with LEP individuals requires your agency to have language assistance services in place. There are two primary types of language assistance services: oral and written. Oral language assistance service may come in the form of "in-language" communication (a demonstrably qualified bilingual staff member communicating directly in an LEP person's language) or telephonic interpretation services via a language line.

Interpreter competency requires more than self-identification as bilingual. Agencies should avoid using family members, children, friends, and untrained volunteers as interpreters because it is difficult to ensure that they interpret accurately and lack ethical conflicts. Family members as interpreters pose particular difficulties: clients may be uncomfortable talking about their trauma with a family member present to avoid embarrassment, shame, or hurting the family member. Family members may in turn be upset or traumatized by having to hear the survivor's story. Agencies should ensure that the interpreters or language services they use are qualified and prepared to address the issues of domestic and sexual violence, including talk of violence and the use of slang terms that may be used for body parts or sexual acts.

Translation is the replacement of written text from one language into another. A translator also must be trained and registered or certified in order to faithfully translate an agency's vital documents. Vital written documents include, but are not limited to: release of information and grievance forms, intake forms, written notices of rights, notices of denials or exits from service, signs and notices advising LEP individuals of free language assistance services.

When agency personnel have reason to believe that an individual is LEP, the agency must respond to that LEP individual in a language he or she understands.

Training Staff

Staff will not be able to provide meaningful access to LEP individuals if they do not receive training on language access policies and procedures, including how to access language assistance services. Training should explain how staff can identify the language needs of an LEP individual, access and provide the necessary language assistance services, work with interpreters, and request document translations. This training should also include how to document LEP demographic data on things like intake forms and grant reports. Tracking the number of LEP clients served and their language needs allows agencies to better tailor their language services to the clients they are serving.

An example of an “I Speak” card can be found at www.justice.gov/crt/lep/resources/OhioLangIDcard.pdf

Agencies must inform LEP individuals of their eligibility for benefits, programs, and services in a language they understand. Agencies should assess all points of contact- telephone, in-person, mail, and electronic communication- that the staff has with the public and LEP individuals when determining the best method of providing notice of language assistance services. An agency should not only translate its outreach materials, but also explain **how** LEP individuals may access available language assistance services. This may be accomplished through the use of effective, program specific notices such as forms, brochures, language access posters placed in conspicuous locations describing in multiple languages the availability of language assistance services, the use of “I Speak” language identification cards, and by including instructions in languages other than English on telephone menus.

Language access procedures should address the following:

- How staff are to respond to telephone calls from LEP individuals.
- How staff inform LEP individuals about available language assistance services.
- How staff will identify the language needs of LEP individuals.
- How staff are to respond to correspondence (letters and email) from LEP individuals.
- How staff will procure in-person interpreter services.
- How staff will access telephone or video interpreter services.
- How to use bilingual staff for LEP services, and which staff are authorized to provide in-language service.
- How to obtain translations of documents.

HHS.gov provides ‘*Example of a Policy and Procedure for Providing Meaningful Communication with Persons with Limited English Proficiency*’ at <https://www.hhs.gov/civil-rights/for-providers/clearance-medicare-providers/example-policy-procedure-persons-limited-english-proficiency/index.html>

Resources:

Department of Justice Language Access Plan, 2012;
<https://www.justice.gov/sites/default/files/open/legacy/2012/05/07/language-access-plan.pdf>

U.S. Department of Justice Civil Rights Division, Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs, 2011,
https://www.lep.gov/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf

US Department of Labor LEP toolkit- <https://www.dol.gov/oasam/programs/crc/lepcnt.htm>

Ethnic Differences in Female Sexual Victimization, Sexuality and Culture; Kalof, L., p 75-97, 2000

Recency of immigration , substance abuse, and sexual behavior among Massachusetts adolescents, American Journal of Public Health Blake; S.M., Ledsky, R., Goodenow, C., And ODonnell, L., p794-798, 2001

Sexual Violence Against Adolescent Girls: Influences of Immigration and Acculturation, 13(5) Violence Against Women; Decker, M., Raj, A., and Silverman, J., p 498 & 507, 2007.

Battered Immigrant Women's Willingness to Call for Help and Police Response, UCLA WOMEN'S L.J. ; Dutton, M.A., Hass, G.A., and Ammar, N., p 43 & 89, 2003
Use and Outcome of Civil Protection Orders by Battered Immigrant Women in the U.S., Orloff, Dutton, and Ammar, 2008

Empowering Survivors: Legal Rights Of Immigrant Victims Of Sexual Assault, Orloff, 2013

Tennessee Immigrant and Refugee Rights Coalition, <http://www.tnimmigrant.org/>

Immigration, Culture Conflict and Domestic Violence/Woman Battering, Erez, 2002
Trauma-informed Care for Children Exposed to Violence Tips for Agencies Working With Immigrant Families, Office of Juvenile Justice, 2011,
<https://www.justice.gov/sites/default/files/defendingchildhood/legacy/2011/09/19/tips-immigrant-families.pdf>

Guide For Advocates Working With Immigrant Victims Of Domestic Violence, The Delaware Domestic Violence Coordinating Council
<https://dvcc.delaware.gov/wp-content/uploads/sites/87/2017/06/Final-Immigration-Resource-Guide.pdf>