

**Departmental Appeals Board
U.S. Department of Health and Human Services**



Language Access Plan

Fiscal Year 2024

TABLE OF CONTENTS

DAB OVERVIEW.....	1
LANGUAGE ACCESS PLAN OVERVIEW.....	2
Policy Statement.....	2
Purpose and Authority.....	2
Scope of Policy.....	3
CURRENT LANGUAGE ASSISTANCE SERVICES.....	3
IMPLEMENTATION PLAN.....	4
Identification and Assessment of Language Access Needs.....	4
Interpretation Language Assistance Services.....	4
Written Translation.....	5
Policies, Procedures, and Practices.....	6
Notification of Language Access Services.....	6
Training.....	7
Continuous Improvement Plan.....	7
Digital Information.....	8
Resource Allocation.....	9
CONTACT INFORMATION.....	9
Appendix A: Definitions.....	11

DAB OVERVIEW

The Departmental Appeals Board (DAB) is an independent staff division located in the Office of the Secretary at the U.S. Department of Health and Human Services (HHS or Department). The DAB provides impartial, independent review, adjudication, mediation, arbitration, and resolution of disputed matters arising from the oversight and administration of HHS programs. The DAB protects the integrity of HHS programs and improves healthcare management and quality by resolving disputes and issuing final agency decisions on behalf of the Secretary.

The DAB is organized into three adjudicatory divisions: (Appellate Division, Civil Remedies Division, and Medicare Operations Division) and three non-adjudicatory divisions (Alternative Dispute Resolution Division, Immediate Office of the Chair, and the Administration Division) and consists of the following groups:

Board Members: Members of the Board are appointed by the Secretary to resolve disputes and issue agency decisions. Board Members are supported by staff in the DAB Appellate Division.

Administrative Law Judges (ALJs): ALJs conduct hearings and adjudicate claims or disputes on a broad range of issues that are critical to HHS healthcare program integrity under the federal Administrative Procedure Act. In 2024, DAB ALJs assumed responsibility for conducting hearings related to unaccompanied children who are under the care and custody of the HHS Administration for Children and Families. ALJs are supported by staff in the Civil Remedies Division.

Medicare Appeals Council (Council): Administrative Appeals Judges (AAJs) who serve on the Council issue final agency decisions and other actions that resolve requests for Medicare coverage and payment and post-entitlement cases. AAJs are supported by staff in the Medicare Operations Division.

Alternative Dispute Resolution (ADR) Division: ADR staff support the DAB Chair in her role as HHS's Dispute Resolution Specialist and provide mediation services, policy guidance, training, and information on ADR techniques.

Immediate Office of the Chair (IO): IO manages organizational matters, tracks rulemaking and policy initiatives, monitors pending litigation and statutory changes, coordinates with other HHS officials on interagency projects and coordinates training and workforce development programs.

Administration Division: The Administration Division manages the DAB's budget formulation and execution, procurement and contracting, space and facilities and operational activities including information technology, and content and records management.

LANGUAGE ACCESS PLAN OVERVIEW

Policy Statement

The DAB will take reasonable steps to ensure meaningful access for individuals with Limited English Proficiency (LEP) and individuals with disabilities by providing quality language assistance services in a timely manner and maintaining compliance with civil rights laws and Department priorities. This responsibility extends to all DAB employees, especially those with direct public contact. All DAB employees will receive training on language assistance and have access to this Language Access Plan. The DAB aims to remove barriers to communications with individuals with LEP and individuals with disabilities

- Identify and track the need for language access services early in the process and throughout the individual's interaction with the DAB;
- Provide interpreter and translation services at no cost;
- Offer language access services where the need is apparent or where the ability of a person to understand and communicate in English is unclear;
- Provide quality language access service in a timely manner;
- Ensure meaningful access to DAB services, programs, and activities;
- Notify individuals of the availability of free language assistance services;
- Issue age-appropriate decisions based on cognitive, emotional, and behavioral development; and
- Encourage respect for linguistic diversity.

The DAB recognizes language access as essential for competent and responsive service delivery and complies with applicable Federal civil rights laws.

Purpose and Authority

The DAB's mission is to provide the best possible dispute resolution services for those who appear before us, rely on our decisions, and the public. The DAB aligns its language assistance resources to the needs of its customers.

Limited English Proficiency should not be a barrier to meaningful participation in administrative proceedings and accessing services, programs, and activities. The DAB recognizes that when language access services are not readily available to individuals with LEP, or where individuals with LEP are unaware of the availability of language assistance services, they may be denied essential services. Without these services, they are effectively denied the protections of our laws. The DAB is committed to ensuring the integrity of communications with individuals with LEP and individuals with disabilities facilitating fair and efficient administration of justice.

The DAB will continue to use its authority to ensure that individuals with LEP and individuals with disabilities enjoy the legal rights to which they are entitled. This Language Access Plan (Plan) establishes guidelines and standards to enable effective communication through quality language assistance services in a timely manner.

The legal basis for this Plan include:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)
- Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131-12134)
- Section 504 and 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794, 29 U.S.C. § 794(d))
- Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency”
- Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government”
- Executive Order 14031, “Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders”
- Executive Order 14091, “Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government”
- The U.S. Department of Health and Human Services Language Access Plan (2023)

Scope of Policy

This Plan covers all services, programs, and activities administered by the DAB.

CURRENT LANGUAGE ASSISTANCE SERVICES

The DAB’s Nondiscrimination Notice will be accessible from the DAB’s website in the following languages:

- Spanish
- Chinese
- Vietnamese
- Korean
- Russian
- Arabic
- French Creole
- French
- Portuguese
- Italian
- German
- Japanese

DAB leadership continues to review additional documents for translation into other languages.

The DAB contracts with a company through a General Services Administration multiple award schedule for interpreter and translator services. Through an inter-agency agreement, the Accessibility and Disability Branch within the Office of Equal Employment Opportunity, Diversity and Inclusion (EEODI) at HHS provides interpretation services for individuals with disabilities.

In January 2024, the DAB began enhancing its website, e-filing system, and landing page to improve customer experience and incorporate elements of this Plan.

IMPLEMENTATION PLAN

Identification and Assessment of Language Access Needs

As part of our regular business operations, regular language access assessments will be conducted at least annually to understand and evaluate the language needs of DAB customers. These assessments will identify language barriers and include:

- Identifying non-English languages, including American Sign Language (ASL) or other sign languages, used by the population likely to access DAB services;
- Identifying barriers to effective interpretation and written communication for individuals with LEP;
- Participating in inter- and intra-agency workgroups focused on improving language access; and
- Collaborating with other agencies on best practices.

The Executive Director of the Administration Division is responsible for tracking interpreter and translation requests submitted to the DAB. Monthly reports of language access requests and service delivery will be circulated to the DAB Leadership Team. At a minimum, reports will include the date and time of each request, estimated duration of service requirement (e.g., interpreter or translator services), language pairs, and a brief description of the activity being covered.

The DAB is also committed to using existing resources at the Office of the Assistant Secretary for Public Affairs (ASPA) to conduct ongoing evaluations of the DAB's website and on-line resources to maximize accessibility for individuals with disabilities and LEP individuals.

Interpretation Language Assistance Services

Interpretation language assistance services are essential to ensuring meaningful access to and an equal opportunity to participate fully in DAB programs, services, and activities.

All DAB staff, especially those who are responsible for public contact, will assess the need for language assistance, notify individuals of the right to an interpreter at no cost, and make reasonable efforts to obtain these services. Staff are trained to avoid assumptions about an individual's primary language or language access needs.

Staff with subsequent contact will continue to assess language assistance needs. Information about an individual's language needs and preferences should be noted in the agency file for consistent service.

Interpreters play a critical role in delivering accurate and quality language assistance services. They ensure parties can bring their disputes before the DAB. Accurate interpretation is essential to ensuring the DAB's ability to determine facts and decide matters fairly. Due to the confidential nature of matters brought before the DAB, interpreters must also be impartial language professionals.

Pursuant to the Department's 2023 Language Access Plan (HHS Plan), the Executive Director of the Administration Division will take reasonable steps to ensure that interpreters demonstrate proficiency in and the ability to communicate information accurately in both English and the interpreted language including:

- Meeting the standards and qualification, as set forth by the HHS Plan and DAB's Standard Operating Procedure, to deliver interpretative services for the types of communication provided at the DAB;
- Possessing relevant subject matter competency and knowledge in both languages of any specialized terms or concepts; and
- Understanding and adhering to the confidentiality, impartiality, and ethical needs of the DAB.

Language assistance may be provided through various means, including in-person, telephonic, remote voice, and video interpreting. DAB staff should never enlist children for language assistance. Adult family or community members may only be used in exceptional circumstances or upon request from the person with LEP.

Additionally, individuals with disabilities are entitled to appropriate auxiliary aids and services, where necessary, to afford them an equal opportunity to be heard, including qualified sign language interpreters. The DAB does not require a person with a disability to bring another person to interpret for them. Additionally, the DAB will regularly assess and monitor its language access resources and make improvements necessary to best serve its customers.

Written Translations

The DAB will continue to identify and translate vital documents and notices into languages other than English, including American Sign Language and indigenous languages, of LEP populations. A list of these translated materials will be maintained and prominently posted on the DAB's website and available to DAB staff. Notice of rights to nondiscrimination will be made available in multiple languages, in accordance with the needs assessment conducted by the DAB.

Translated documents should be easy to understand considering plain language, cultural communication, health literacy, and age appropriate language based on cognitive, emotional, and behavioral development.

The DAB will use qualified translators and reviewers to improve cultural appropriateness and accuracy. Translators must demonstrate professional subject matter expertise in the topic(s) that will be translated by demonstrating relevant educational background or professional experience

in the legal and healthcare field. Proficiency will be evaluated based on the criteria set by the HHS Plan as restated below:

- A university-issued degree or certificate in translation in the language combination required;
- Certification by a professional translation association or union, such as the American Translators Association (ATA) or other translation certification body in the language combination and direction required, when available. When certification is not available in a specific language combination and direction required (e.g., English to an Indigenous language), other minimum requirements can be used to assess qualification, including years of experience, references from individuals who are qualified to attest to the quality of their work, etc.;
- At least 3 years of professional experience in a staff position or for a full-time freelance practice dedicated to translation, completing work in the language combination and direction required;
- In addition to this experience, the translator should demonstrate professional subject matter expertise in the topic(s) that will be translated by demonstrating relevant educational background or professional experience in those topics. For example, when translating health care information, translators with subject matter expertise in health and medical terminology should be utilized. Translation of eligibility and insurance issues may require additional expertise.

During procurement of translation services, qualification standards and safeguards, as set forth in the HHS Plan, will be put in place to ensure quality control of translations.

The DAB will take reasonable steps to provide sight translation, interpretation, or audio/video communication for individuals with LEP who may not be literate in their country of origin's prevalent written language or whose languages might not have a written form.

Policies, Procedures, Practices

The Immediate Office of the Chair is responsible for formalizing practices by annually reviewing and developing written guidelines and procedures to ensure consistent delivery of LEP services. Training materials, Standard Operating Procedures, and other guidance documents will be stored in a shared location, easily accessible by all staff.

Notification of Language Access Services

The DAB will provide notice of the following:

- An individual's right to language assistance services;
- The availability of language assistance services at no cost; and
- Information on how to request language assistance services.

By October 1st of each year, or within six months of Plan revision, notices will be provided in languages other than English and communicated in a culturally and linguistically appropriate manner on the agency website.

Training

Staff training is vital for effective language assistance services. The Executive Director for Human Capital Management, in collaboration with the Immediate Office of the Chair, will annually review its current training program and develop and implement training strategies covering:

- HHS's and DAB's legal obligations to provide language assistance services;
- The importance of providing language assistance services at no cost to its customers;
- Policies and procedures relating to the DAB's language access services;
- Types of translated information available and where to find them;
- Techniques and assistive technologies offered at the DAB;
- Ways to identify the language needs of an LEP individual;
- Ways to effectively and respectfully communicate and interact with individuals with LEP and individuals with disabilities in person and on the telephone;
- How to request translation and interpretation services;
- Interpreter ethics;
- How the public can request services or file a complaint; and
- Tracking and maintaining data on the type of interpretation requested, the languages requested, and the response time in which interpretation was provided.

Even if staff do not regularly interact with LEP individuals, they should understand this Plan to reinforce its importance and ensure compliance.

Continuous Improvement Plan

The DAB recognizes the importance of staying informed of the challenges and opportunities for improvements in its language access efforts. The DAB will develop strategies to monitor and evaluate language assistance services to ensure they meet customers' needs. As part of this evaluation, the Immediate Office of the Chair will review complaints and suggestions to improve the quality and accessibility of interpreter and translation services. Complaints regarding language access services shall be submitted to and reviewed by the Immediate Office of the Chair.

The Executive Director of the Administration Division, in collaboration with the Immediate Office of the Chair, will coordinate and manage requests for interpreter and translation services, manage a budget for language assistance services, and regularly assess and improve language assistance resources.

The continuous improvement metrics include the routine evaluation of:

- Customer wait times;

- Quality and accuracy of interpretation services and written translations;
- Identification and elimination of barriers to language access services; and
- Overall customer satisfaction with the available language assistance services provided.

Division Directors, Team Leads, and Immediate Office staff play essential roles in implementing this Plan, monitoring compliance, and providing improvement recommendations.

To increase the availability and quality of language assistance services, the annual performance management plans for Division Directors, Managers, Supervisors and Team Leads will include a critical element evaluating staff on compliance of this Plan and accompanying Standard Operating Procedures, including, but not limited to:

- Monitoring access to language assistance;
- Assessing the efficacy and availability of services provided to individuals with LEP and individuals with disabilities; and
- Making recommendations for improvements to the Chair or her designee regarding the DAB's language access services, policies, and procedures.

The DAB will engage with healthcare and human services partners and consumers for language access improvements. The DAB will work with federal agencies to share and utilize tools, best practices, and technical assistance to ensure high-quality, cost-effective language access services. In addition, the DAB will convene listening sessions to identify ways to best serve individuals and communities with LEP.

At the forefront of continuously improving this Plan, the DAB is committed to addressing language barriers by considering the diverse linguistic and cultural needs of the communities it serves.

Digital Information

The DAB embraces and promotes the capabilities of technology to expand language access services to its customers. The DAB's website is currently undergoing a redesign to improve internal and external customer interfaces and communications. Usability tests, with a consideration of users with LEP and users with disabilities, may be utilized to help identify features and improvements on navigating the DAB's website. Information needed to access language services will be centralized and easily accessible. The proposed redesign includes plans to update DAB's e-filing system. This new system will provide individuals with LEP with online access to in-language program information and services, and ensure they are aware of and can obtain language assistance needed to access important program information and services. DAB's updated website will also utilize graphics and multimedia to enhance accessibility.

The DAB, with assistance from ASPA's Digital Content Division and the agency's technology contractor responsible for managing its automated case tracking system (DABACTS), will develop and implement enhancements to the DAB's website, e-file, and landing pages to integrate key language selector components identified by the U.S. Web Design System's 21st Century Integrated Experience Act (IDEA).

The DAB will comply with Section 508 of the Rehabilitation Act of 1973 (Section 508), ensuring that information and communication technology, including websites, electronic documents, and software applications, are accessible to individuals with disabilities. The DAB will work with the Department’s Office of Chief Information Officer and its Section 508 Program Managers to ensure translated digital content meets Section 508 requirements.

In addition to the requirements of Section 508, DAB will comply with Section 504 requiring that HHS take appropriate steps to ensure effective communication with people with disabilities, including through the provision of appropriate auxiliary aids, application of plain language principles, and services such as sign language interpreters.

Resource Allocation

The DAB will explore cost-effective means to deliver competent and accurate language services and develop budget requests to meet anticipated language assistance needs, including developing budget justifications for:

- Message dissemination to raise awareness of available interpretation services; and
- Producing and distributing translated vital documents

The DAB will continue exploring additional ways to reduce cost, including cost sharing with other agencies and offices for shared interpreter and translator services.

CONTACT INFORMATION

The DAB is collaborating with the Assistant Secretary for Administration’s (ASA) Office of Acquisitions Management (OAMS) to procure an inbound automated telephone answering system that offers basic assistance in multiple languages. This system will provide options for common inquiries, such as accessing the DAB E-File website, instructions for using E-File, checking appeal status, and obtaining filing mailing address and fax number. Moreover, the automated system will integrate with the DAB’s website to promptly update callers on their appeal status, indicating whether it is “pending” or “closed.” This updated system will transition communications with appellants towards a fully digital process, enhancing interaction and efficiency between the DAB and the public.

The goal is to procure and implement the automated telephone answering system by September 30, 2024. Immediate interpreter services are available at 1-800-368-1019 or 1-800-537-7697 (TDD) until the new automated telephone system is implemented.

For comments, feedback, or questions regarding this Language Access Plan, please contact:

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Appendix A

Relevant Definitions

Auxiliary Aids and Services: Tools or assistance provided to communicate with people who have communication disabilities.

Customer: Individuals, businesses, and organizations that interact with an HHS agency or program. The term customer is inclusive of beneficiaries and health care and human services partners.

Interpretation: The act of listening, understanding, analyzing, and processing a spoken communication in one language (source language) and then faithfully orally rendering it into another spoken language (target language) while retaining the same meaning. For individuals with certain disabilities that affect communication, this can include understanding, analyzing, and processing a spoken or signed communication in the source language and faithfully conveying that information into a spoken or signed target language while retaining the same meaning.

Language Access: The ability of individuals with LEP to communicate with HHS employees and contractors, and meaningfully learn about, apply for, or participate in HHS programs, activities, and services.

Language Assistance Services: All oral, written, and signed language services needed to assist individuals with LEP and people with disabilities to communicate effectively with HHS staff and contractors and gain meaningful access and an equal opportunity to participate in the services, activities, programs, or other benefits administered by HHS.

Limited English Proficiency (LEP): An individual who does not speak English as the preferred language and who has a limited ability to read, write, speak, or understand English in a manner that permits effective communication with HHS and have meaningful access to and participate in the services, activities, programs, or other benefits administered by HHS. Individuals with LEP may be competent in English for certain types of communication (e.g., speaking or understanding), but have limited proficiency in English in other areas (e.g., reading or writing). LEP designations are also context-specific; an individual may possess sufficient English language skills to function in one setting (e.g., conversing in English with coworkers), but these skills may be insufficient in other settings (e.g., addressing court proceedings). An individual who is deaf or hard of hearing may also have limited proficiency in spoken or written English.

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

Plain Language: Plain language as defined in the Plain Writing Act of 2010 is writing that is “clear, concise and well organized.”

Preferred/Primary Language: The language that LEP individuals identify as the preferred language that they use to communicate effectively. The language that LEP individuals identify as the preferred language that they use to communicate effectively.

Qualified Interpreter: A bilingual/multilingual person who has the appropriate training and experience or demonstrated ability to fully understand, analyze, and process and then faithfully render a spoken, written, or signed message in one language into a second language and who abides by a code of professional practice and ethics. In the context of disabilities, a qualified interpreter is one who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. A child shall not be considered a qualified translator or interpreter, nor shall a family member or employee who does not meet the minimum qualifications specified above.

Translation: The process of converting written text from a source language into an equivalent written text in a target language as fully and accurately as possible while maintaining the style, tone, and intent of the text, while considering differences of culture and dialect.

Vital Document: Paper or electronic written material that contains information that is critical for accessing a component's programs or activities or is required by law. Vital documents include, but are not limited to: critical records and notices as part of emergency preparedness and risk communications; online and paper applications; consent forms; complaint forms; letters or notices pertaining to eligibility for benefits; letters or notices pertaining to the reduction, denial, or termination of services or benefits that require a response from an individual with LEP; written tests that evaluate competency for a particular license, job, or skill for which knowing English is not required; documents that must be provided by law; and notices regarding the availability of language assistance services for individuals with LEP at no cost to them.