

**Arizona Department of Health Services
Division of Behavioral Health Services
PROVIDER MANUAL**

Section 3.23 Cultural Competence

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3.23.1 Introduction

As Arizona's population becomes more diverse, the Arizona Department of Health Services/Division of Behavioral Health Services (ADHS/DBHS), continue to plan for these changes by developing ways to address needs of all individuals receiving services in the public behavioral health system. ADHS/DBHS, The Tribal and Regional Behavioral Health Authorities (T/RBHA) and behavioral health providers must have the ability to be responsive to the unique cultural, ethnic, or linguistic characteristics of the population it serves; therefore, ADHS/DBHS has based the Cultural Competency approach in a mixture of competency-based and evidence-based practice models.

In 1997, the U.S. Department of Health and Human Services - Office of Minority Health (OMH), developed the [National Standards on Culturally and Linguistically Appropriate Services \(CLAS\)](#), to support a more consistent and comprehensive approach to cultural and linguistic competence in health care. The CLAS standards have been integrated by ADHS/DBHS incorporating them in contracts, plans and policy language. Additionally the standards have served as the base for the ADHS/DBHS Cultural Competence framework and model.

Through ongoing data collection and community collaboration, ADHS/DBHS has determined that disparities and/or gaps exist with regard to access to effective, quality behavioral health services that are inclusive of all traditions, cultural beliefs, diverse cultures, and races and ethnicities. Therefore, ADHS/DBHS continues to focus on new initiatives and programs, based on data driven goals and outcomes, to provide a comprehensive range of inclusive and high quality services for all underserved/underrepresented populations identified within Arizona's geographic regions.

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The Annual Diversity Report, the T/RBHA Quarterly Diversity Episode of Care/Penetration Reports, the Annual Episode of Care/Penetration Reports, and the Language Services Reports are resources for determining areas of accomplishment and areas of improvement.

3.23.2 References

The following citations can serve as additional resources for this content area:

[29 U.S.C § 102](#)

[29 U.S.C. § 206 \(d\)](#)

[29 U.S.C § 501](#)

[29 U.S.C. § 621](#)

[29 U.S.C. § 626 \(e\)](#)

[29 U.S.C § 791](#)

[42 U.S.C. § 2000d *et seq.*](#)

[42 U.S.C. § 2000e *et seq.*](#)

[42 U.S.C. § 1981](#)

[42 U.S.C. § 12101 *et seq.*](#)

[Balanced Budget Act of 1997](#)

[45 CFR Section 80.3](#)

[42 CFR § 438.10](#)

[42 CFR § 438.206](#)

[42.CFR § 422.2264\(e\)](#)

[Title VI of the Civil Rights Act](#)

[ADA Accessibility Guidelines](#)

[The Age Discrimination in Employment Act \(ADEA\)](#)

[Culturally and Linguistically Appropriate Services \(CLAS\) in Healthcare Standards](#)

[Mental Health: Culture, Race and Ethnicity- Supplemental Report of the Surgeon](#)

[General](#)

[U.S. Department of Health & Human Services - Office for Civil Rights – LEP recipients](#)

[U.S. Department of Health & Human Services - Office of Minority Health](#)

[U.S. Equal Employment Opportunity Commission](#)

[Indian Health Care Improvement Act - Provisions in the Patient Protection and](#)

[Affordable Care Act \(P.L. 111-148\)](#)

[President's Executive Order No.13166](#)

[A.R.S. § 23-341](#)

[A.R.S. § 36-1946](#)

[R9-21-202](#)

[AHCCCS/ADHS Contract](#)

[AHCCCS Contractor Operations Manual \(ACOM\)](#)

[ADHS/RBHA Contracts](#)

[ADHS/Tribal IGAs](#)

[ADHS Tribal Consultation Policy](#)

[Section 3.9 Intake, Assessment and Service Planning](#)

[Section 3.13 Covered Behavioral Health Services](#)

[Section 4.2 Behavioral Health Medical Record Standards](#)

[Section 5.1 Notice Requirements and Appeal Process for Title XIX and Title XXI Eligible Persons](#)

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[Section 5.5 Notice and Appeal Requirements \(SMI and Non-SMI/Non-Title XIX/XXI\)](#)

[Section 9.1 Training Requirements](#)

[ADHS/DBHS Covered Behavioral Health Services Guide](#)

[ADHS/DBHS Cultural Competency Web page](#)

[The Adult Clinical Team Practice Protocol](#)

[The Child and Family Team Process Practice Protocol](#)

[The Prevention Framework for Behavioral Health, 2009 Revision](#)

[DiversityRx](#)

3.23.3 Scope

To whom does this apply?

All behavioral health providers under contract with a T/RBHA or a T/RBHA network that deliver covered behavioral health services to eligible persons.

3.23.4 Did you know...?

- ADHS/DBHS follows the [Nine Guiding Principles](#) which were developed to provide a shared understanding of the key ingredients needed for an adult behavioral health system to promote recovery. System development efforts, programs, service provision, and stakeholder collaboration must be guided by these principles. These Guiding Principles correlated with and complement the [12 Principles for Children's Behavioral Health Care](#).
- According to data provided by the Joint Commission in their Web site publication titled [About Hospitals, Language, and Culture: A Snapshot of the Nation](#) (October 27,2009); the demographics of the United States have changed considerably over the last several decades. Currently, more than 37 million U.S. residents are foreign born, 54 million people speak a language other than English at home, and 24 million people speak English less than “very well” and are classified as LEP. Research has shown that a lack of sensitivity and responsiveness to cultural and language needs impacts quality, safety, and patient satisfaction. In addition, one-half of the U.S. population lacks the skills to function within the health care system.
- The Patient-Centered Communication standards were approved in December 2009 and released to the field in January 2010. The standards will be published in the [2011 Comprehensive Accreditation Manual for Behavioral Health Care \(CAMBHC\): The Official Handbook](#). Joint Commission surveyors will evaluate compliance with the Patient-Centered Communication standards beginning January 1, 2011; however, findings will not affect the accreditation decision. The information collected by Joint Commission surveyors and staff during this implementation pilot phase will be used to prepare the field for common implementation questions and concerns. Compliance with the Patient-Centered Communication standards will be included in the accreditation decision no earlier than January 2012. [View a pre-publication version of the standards](#).

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- The President's [Executive Order No.13166](#) issued in 2000, and enforced by the Department of Justice, titled "Improving Access to Services for Persons with Limited English Proficiency (LEP)," was created to "... improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency..."
- A Federal Web site ([LEP.gov](#)) was developed by the Federal Interagency Workgroup on LEP in support of the President's Executive Order 13166. The site was designed to provide guidance and technical assistance to health care recipients, federal agencies and communities.
- Healthy People 2010 is a statement of national health objectives designed to identify the most significant preventable threats to health and to establish national goals to reduce these threats. One of the goals of Healthy People is to reduce health disparities. Additionally, Healthy People is the most comprehensive source of health data in the nation, according to the [Healthy People 2010 and Steps to a Healthier US: Leading Prevention presentation](#).
- The State of Arizona is home of 22 federally recognized tribes on Indian reservations, which are considered sovereign nations. These tribal nations have jurisdiction over their tribal members residing on their tribal lands. Arizona recognizes the sovereignty of the tribes and practices government-to-government relationship with the tribes. The Arizona Governor enacted an Executive Order (2006-14) requiring consultation with the tribes prior to an enactment of legislation or policy impacting tribal members. This executive order is commensurate with federal Presidential executive orders requiring tribal consultation by federal agencies. ADHS has a [Tribal Consultation Policy](#) and works to incorporate government-to-government practices in its business relationships with tribes.
- Each RBHA has a Tribal Liaison. The Tribal Liaison works to enhance behavioral health services to American Indians both on and off reservation. The Tribal Liaison also works with tribal governments to facilitate the development of RBHA provider services on tribal lands.
- Beneficiary improvements, as described in the Medicare Improvements for Patients and Providers Act of 2008 mandates compliance with and enforcement of CLAS standards in Medicare. The Office of the Inspector General (OIG) must report, within two years, on the extent to which Medicare providers follow the rules regarding discrimination against beneficiaries with limited English proficiency and the Culturally and Linguistically Appropriate Services (CLAS) Standards, and requires the Secretary to correct any deficiencies ([Department of Health & Human Services OIG, July 2010](#)).
- Under Title VI of the Civil Rights Act, recipients of federal financial assistance must take reasonable steps to ensure meaningful access to their programs, services and activities by eligible limited English proficient (LEP) persons. In order to comply with

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these Federal requirements, T/RBHA providers must provide language assistance services, such as interpreters and translated documents.

3.23.5 Definitions

[CLAS Standards](#)

[Commonly Encountered LEP Groups](#)

[Cultural Competence](#)

[Culture](#)

[Disability](#)

[Interpretation](#)

[Health Disparities](#)

[Limited English Proficiency \(LEP\)](#)

[Linguistic Competence](#)

[Member Information Materials](#)

[Translation](#)

3.23.6 Objective

To outline the frame work in which ADHS/DBHS has developed cultural competency specific activities based on Federal and State requirements and to effectively communicate the expectations for the delivery of culturally and linguistically appropriate behavioral health services.

3.23.7 Procedures

3.23.7-A. Required Cultural Competency Plan

The RBHAS are required to develop and implement an annual cultural competency plan according to ADHS/DBHS guidance to ensure compliance of State and Federal Rules and Regulations.

As the involvement of Indian Tribes in the development of ADHS/DBHS policies has increased and under the legal umbrella of the Intergovernmental Agreements (IGAs), ADHS/DBHS is committed to working with Indian Tribes to improve the quality, availability, accessibility and culturally responsive behavioral health care services for American Indians in Arizona. As part of those efforts the TRBHAS annually develop and

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implement a cultural competency plan that addresses the unique needs of the population they serve. ADHS/DBHS provides guidance and technical assistance when needed to be in agreement with the most important goals of ADHS/DBHS cultural competency outlined in the annual plan.

3.23.7-B. Overall ADHS/DBHS Cultural Competency Framework

Required Culturally and Linguistically Appropriate Services (CLAS) Standards

The CLAS standards were established to correct inequities that currently exist in the provision of health and social services and to be more responsive to the individual needs of all patients/consumers. Ultimately, the aim of the standards is to contribute to the elimination of racial and ethnic health disparities and to improve the health of all Americans.

The 14 standards are organized as follows:

- **Culturally Competent Care** (Standards 1-3), **Language Access Services** (Standards 4-7), and **Organizational Supports for Cultural Competence** (Standards 8-14). Within this framework, there are three levels of expectations for compliance:
 - CLAS **mandates** are current Federal requirements for all recipients of Federal funds (Standards 4, 5, 6, and 7), and these mandates deal with linguistic competency
 - CLAS **guidelines** are activities recommended by OMH for adoption as mandates by Federal, State, and national accrediting agencies (Standards 1, 2, 3, 8, 9, 10, 11, 12, and 13).
 - CLAS **recommendations** are suggested by OMH for voluntary adoption by health care organizations (Standard 14).

In accordance with all the standards, ADHS/RBHA contracts, ADHS/Tribal Intergovernmental Agreements and T/RBHA Annual Cultural Competency plans, require adherence to all three areas of the CLAS standards:

- Language Access Services (LAS);
- Culturally Competent Care; and
- Organizational Supports for Cultural Competence.

[T/RBHAs insert additional information here]

3.23.7-C Language Access Services (LAS)

To comply with the [LAS requirements](#), T/RBHAs and subcontracted providers must:

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- Provide language assistance services, including bilingual staff and interpreter services, at no cost to each behavioral health recipient with limited English proficiency at all points of contact, in a timely manner during all hours of operation;
- Provide to behavioral health recipients in their preferred language both verbal offers and written notices informing them of their right to receive language assistance services;
- Ensure the competence of language assistance provided to limited English proficient behavioral health recipients, by interpreters and bilingual staff. Family and friends should not be used to provide interpretation services (except on request by the behavioral health recipient); and
- Make available easily understood behavioral health-related materials and post signage in the languages of the commonly encountered groups and/or groups represented in the service area.

If the behavioral health recipient care requires the presence of a legal parent or guardian who does not speak English (e.g., when the patient/consumer is a minor or severely disabled), the T/RBHA and subcontracted providers must document the language not only of the recipient but also of the guardian or legal appointed representative. As a first preference, the availability of bilingual staff who can communicate directly with the recipient or guardian in their preferred language is desired. When such staff members are not available, face-to-face interpretation provided by trained staff, or contract or volunteer interpreters, is the next preference. Telephone interpreter services should be used as a supplemental system when an interpreter is needed instantly, or when services are needed in an unusual or infrequently encountered language. The competence and qualifications of individuals providing language services are discussed in Standard 6 of the CLAS standards final report.

Accessing Oral Interpretation Services

In accordance with [Title VI of the Civil Rights Act](#), Prohibition against National Origin Discrimination, T/RBHAs and their subcontracted providers must make oral interpretation services available to persons with Limited English Proficiency (LEP) at all points of contact. Oral interpretation services are provided at no charge to AHCCCS eligible persons and Non-Title XIX/XXI persons determined to have a Serious Mental Illness (SMI). Members must be provided with information instructing them how to access these services.

[T/RBHAs insert information, including contact information here for accessing language interpretation services.]

Accessing Interpretation Services for the Deaf and the Hard of Hearing

In accordance with [A.R.S. § 36-1946](#), T/RBHAs and their subcontracted providers must provide auxiliary aids or licensed sign language interpreters that meet the needs of enrolled persons upon request, at no charge to AHCCCS eligible persons or person determined to have a Serious Mental Illness. Auxiliary aids include computer-aided transcriptions, written materials, assistive listening devices or systems, closed and open

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captioning, and other effective methods of making aurally delivered materials available to persons with hearing loss.

The Arizona Commission for the Deaf and the Hard of Hearing provides a listing of qualified and licensed interpreters, information on auxiliary aids and the complete rules and regulations regarding the profession of interpreters in the State of Arizona. (Arizona Commission for the Deaf and the Hard of Hearing <http://www.acdhh.org> or (602) 542-3323 (V/TTY)).

[T/RBHAs insert additional information here for accessing interpretation services for the deaf and hard of hearing.]

Translation of Written Material

T/RBHAs and their subcontracted providers must make written translated materials available, when the T/RBHA is aware that a language is spoken by 3,000 or 10% (whichever is less) of the provider behavioral health recipients, to the commonly encountered LEP groups who are AHCCCS eligible and to persons determined to have a Serious Mental Illness.

All vital materials shall be translated when the T/RBHA is aware that a language is spoken by 1,000 or 5% (whichever is less) of the T/RBHA's behavioral health recipients who also have LEP. Vital materials must include at a minimum;

- Notice for denials, reductions, suspensions or termination of services;
- Service plans;
- Consent forms;
- Communications requiring a response from the behavioral health recipient; and
- Grievance notices.

Members with LEP, whose languages are not considered commonly encountered, will be provided written notice in their primary or preferred language of the right to receive competent translation of written material.

Individual Service Plan (ISP) and Inpatient Treatment and Discharge Plan (ITDP)

The ADHS/DBHS Individual Service Plan (ISP) is intended to fulfill several functions, which include identification of necessary behavioral health services (as evaluated during the assessment and through participation from the person and his/her team), documentation of the person's agreement or disagreement with the plan, and notification of the person's right to a Notice of Action ([See PM Section 5.1 Notice Requirements and Appeal Process for Title XIX and Title XXI Eligible Persons](#)) or Notice of Decision and Right to Appeal ([See PM Section 5.5 Notice and Appeal Requirements \(SMI and Non-SMI/Non-Title XIX/XXI\)](#)), if the person does not agree with the plan. ADHS/DBHS provides the service plan templates in both English and Spanish. The individual service plan is a vital document as defined in the [AHCCCS/ADHS contract](#), ADHS/ RBHA Contracts and ADHS/ TRBHA IGAS.

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As the service plans specifically incorporates a person's rights to disagree with services identified on the plan; If the plan is not in the person's preferred language, the person has not been appropriately informed of services he/she will be provided and afforded the opportunity to exercise his/her rights when there is a disagreement.

These requirements apply also to the ITDP (Inpatient Treatment and Discharge Plan), in accordance with the [9 A.A.C. 21, Article 3](#).

In general, any document that requires the signature of the behavioral health recipient, and that contains vital information such as the treatment, medications or notices, or service plans must be translated into their preferred/primary language if requested by the behavioral health recipient or his/her guardian.

T/RBHAS and subcontracted providers must provide the service plans in the preferred/primary language expressed by the behavioral health recipient.

[T/RBHA insert additional information here for accessing translation of written materials]

3.23.7-D Culturally Competent Care

To comply with the Culturally Competent Care requirements, T/RBHAS and subcontracted providers must:

- Ensure that behavioral health recipients, receive from all provider staff members, effective, understandable, and respectful care that is provided in a manner compatible with their cultural health beliefs and practices and preferred language;
- Implement strategies to recruit, retain, and promote at all levels of the organization a diverse staff and leadership that are representative of the demographic characteristics of the service area; and
- Ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery. Providers with direct care responsibilities must complete mandated Cultural Competency training ([see PM Section 9.1 Training Requirements](#) and the [Cultural Competence Plan](#)), and ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery for the specific groups in the region.

3.23.7-E Organizational Supports for Cultural Competence

Under ADHS/DBHS guidance, and to comply with the Organizational Supports for Cultural Competence the T/RBHAs must:

- Develop, implement, and promote a written strategic plan following ADHS/DBHS standards and guidelines that outlines clear goals, policies, operational plans,

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- and management accountability/oversight mechanisms to provide culturally and linguistically appropriate services.
- Conduct initial and ongoing organizational self-assessments of CLAS-related activities and integrate cultural and linguistic competence-related measures into internal audits, performance improvement programs, recipient satisfaction assessments, and outcomes-based evaluations, if required by ADHS/DBHS.
 - Ensure that data on behavioral health recipients' race, ethnicity, and primary and/or preferred language is collected in the behavioral health medical record, integrated into management information systems, and periodically updated.
 - Develop participatory, collaborative partnerships with communities and utilize a variety of formal and informal mechanisms to facilitate community and recipient involvement in designing and implementing CLAS-related activities.

Subcontracted providers must:

- Maintain a current demographic profile of the service area as well as communicate existing needs to the T/RBHA in order to accurately plan for and implement services that respond to the cultural and linguistic characteristics of the service area.
- Ensure that conflict and grievance resolution processes at the provider level are culturally and linguistically sensitive and capable of identifying, preventing, and resolving cross-cultural conflicts or complaints by behavioral health recipients.
- Regularly make available to the T/RBHAS the information about progress and successful innovations in implementing the CLAS standards and to provide public notice in their communities about the availability of this information.

3.23.7-F Documenting Oral Interpretation Services and Translated Materials

Assessment and Service Planning

If the behavioral health recipient requests a copy of the assessment, those documents must be provided to the behavioral health recipient in his/her primary language. Documentation in the assessment must also be made in English; both versions must be maintained in the recipient's record. This will ensure that if any persons, who must review the recipient's record for purposes such as coordination of care, emergency services, auditing and data validation, have an English version available. If the primary/preferred language of the behavioral health recipient is other than English and any of the service plans have been completed in English, the provider must ensure the service plans are translated into the behavioral health recipient's primary/preferred language for his/her signature.

Documentation of oral interpretation services provided in a language other than English must also be included in the recipient's record. Documentation must include date of service and interpreter name, each time a service requiring interpretation is provided.

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3.23.8 Laws Addressing Discrimination and Respect for Diversity and Inclusion

T/RBHAs and provider agencies must abide by the following referenced federal and state applicable rules, regulations and guidance documents:

- [Title VI of the Civil Rights Act](#) prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.
- Department of Health and Human Services - Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination affecting [Limited English Proficient](#) Persons.
- [Title VII of the Civil Rights Act](#) of 1964 prohibits employment discrimination based on race, color, religion, sex, or national origin by any employer with 15 or more employees. ([The Civil Rights Act of 1991](#) reverses in whole or in part several Supreme Court decisions interpreting Title VII, strengthening and improving the law and providing for damages in cases of intentional employment discrimination.)
- [President's Executive Order 13166](#) improves access to services for persons with Limited English Proficiency. The Executive Order requires each Federal agency to examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency.
- [State Executive Order 99-4](#) and [President's Executive Order 11246](#) mandates that all persons regardless of race, color, sex, age, national origin or political affiliation shall have equal access to employment opportunities.
- [The Age Discrimination in Employment Act](#) (ADEA) prohibits employment discrimination against employees and job applicants 40 years of age or older. The ADEA applies to employers with 20 or more employees, including state and local governments. The Older Workers Benefit Protection Act (Pub. L. 101-433) amends the ADEA to prohibit employers from denying benefits to older employees.
- [The Equal Pay Act](#) (EPA) and [A.R.S. 23-341](#) prohibit sex-based wage discrimination between men and women in the same establishment who are performing under similar working conditions.
- [Section 503 of the Rehabilitation Act](#) prohibits discrimination in the employment or advancement of qualified persons because of physical or mental disability for employers with federal contracts or subcontracts that exceed \$10,000. All covered contractors and subcontractors must also include a specific equal opportunity clause in each of their nonexempt contracts and subcontracts.

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- [Section 504 of the Rehabilitation Act](#) prohibits discrimination on the basis of disability in delivering contract services.
- [The Americans with Disabilities Act](#) prohibits discrimination against persons who have a disability. Providers are required to deliver services so that they are readily accessible to persons with a disability. T/RBHAs and their subcontracted providers who employ less than fifteen persons and who cannot comply with the accessibility requirements without making significant changes to existing facilities may refer the person with a disability to other providers where the services are accessible. A T/RBHA or its subcontracted provider who employs fifteen or more persons is required to designate at least one person to coordinate its efforts to comply with federal regulations that govern anti-discrimination laws.

[T/RBHAs insert additional information here including list of local resources.]