

LIMITED ENGLISH PROFICIENCY LEP TRAINING



Neighborhood Service Organization
Performance Improvement Department



Limited English Proficiency (LEP)

- What is it?
- What does it mean to you?
- How do you implement it?

What Is LEP?

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be limited English proficient, or "LEP." These individuals may be entitled to language assistance with respect to a particular type of service, benefit, or encounter.

Limited English Proficiency

Most individuals living in the United States read, write, speak, and understand English. There are many individuals, however, for whom English is not their primary language. The 2000 census shows that 26 million individuals speak Spanish and almost 7 million individuals speak an Asian or Pacific Island language at home. If these individuals have a limited ability to read, write, speak, or understand English, they are limited English proficient, or "LEP."

Why LEP?

Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities. The Federal Government funds an array of services that can be made meaningfully accessible to otherwise eligible LEP persons.

Why LEP?

The Federal Government is committed to improving the accessibility of these programs and activities to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English.

Title VI and Executive Order 13166

In certain circumstances, a failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition against national origin discrimination under Title VI of The Civil Rights Act of 1964 (42 U.S.C. 2000d) and the U.S. Department of Justice's (DOJ) Title VI regulations at 49 CFR Part 21.

Title VI and Executive Order 13166

To clarify existing requirements for LEP persons under Title VI, on August 11, 2000, President Clinton issued [Executive Order 13166](#), "Improving 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.

Title VI and Executive Order 13166

Each Federal agency is also directed to work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries. To this end, each agency must prepare a plan to improve access to its federally conducted programs and activities (i.e., the services it provides directly to the public) by eligible LEP persons. The approximately 30 Federal agencies, including DOJ, that provide Federal financial assistance to other parties, such as states, must also develop guidance for their recipients on complying with LEP requirements.

Title VI and Executive Order 13166

The U.S. Department of Justice (DOJ) is responsible for coordinating government wide implementation of the Executive Order. To assist agencies in fulfilling the mandates of the order, DOJ published a general LEP policy guidance document on August 16, 2000, and issued revised guidance on June 18, 2002. The Executive Order states that agencies' LEP plans and guidance must be consistent with the DOJ LEP guidance.

DOJ's LEP Guidance

In accordance with the Executive Order, the U.S. Department of Justice issued [Policy Guidance Concerning Recipient's Responsibilities to Limited English Proficient \(LEP\) Persons](#). As described in the guidance, DOJ recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

DOJ's LEP Guidance

The DOJ guidance outlines four factors recipients should apply to the various kinds of contacts they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons:

DOJ's LEP Guidance

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee.
2. The frequency with which LEP individuals come in contact with the program.
3. The nature and importance of the program, activity, or service provided by the recipient to people's lives.
4. The resources available to the recipient and costs.

DOJ's LEP Guidance

The greater the number or proportion of eligible LEP persons; the greater the frequency with which they have contact with a program, activity, or service; and the greater the importance of that program, activity, or service, the more likely enhanced language services will be needed. Smaller recipients with more limited budgets are typically not expected to provide the same level of language service as larger recipients with larger budgets. The intent of DOJ's guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small organizations and local governments.

DOJ's LEP Guidance

After completing the above four-factor analysis, recipients can determine the appropriate "mix" of LEP services required. Recipients have two main ways to provide language services: **oral interpretation** either in person or via telephone interpretation service and **written translation**. The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. For instance, a motor vehicle department or an emergency hazardous material cleanup team in a largely Hispanic neighborhood may need immediate oral interpreters available and decide to hire full-time bilingual staff.

DOJ's LEP Guidance

In contrast, there may be circumstances where the importance and nature of the activity and number or proportion and frequency of contact with LEP persons may be **low** and the costs and resources needed to provide language services may be **high** in which pre-arranged language services for the particular service may not be necessary. The languages spoken by the LEP individuals with whom the recipient has frequent contact often determine the languages into which documents will be translated and the types of interpreters provided.

Compliance With LEP and Title VI

To comply with Title VI and required LEP Guidelines, contractors must ensure that LEP persons have meaningful access to all services and supports available. They must also insure that LEP individuals are not being discriminated against.

Types of Illegal Discrimination

- Intentional
- Disparate Impact – the policy or activity has the effect of discriminating
- Denying a benefit or opportunity to participate
- Providing different services/benefits

Examples of Illegal Discrimination

- Providing services/benefits in a different manner or in a segregated environment
- Restricting privileges
- Using policies/procedures that have effect of discriminating

Negative Impact of Communication Barriers

Barriers to LEP individuals accessing or obtaining services are:

- Denial of needed benefits and services.
- Delay in service delivery.
- The wrong services are provided.
- Ineffective services are provided.

Negative Impact of Communication Barriers

The negative effect for Providers are:

- Increased costs and inefficiencies
- Inferior Services
- Potential liability for provision of ineffective services

Meaningful Access

To ensure meaningful access
Contractors must:

- Provide language assistance that results in accurate and effective communication.
- Provide assistance at no cost to the individual.



Elements of Effective Language Assistance Program

The four elements are:

- Assessment of language needs.
- Development and implementation of written policies for language access.
- Training staff on policies and procedures.
- Monitoring the effectiveness of policies and procedures.

Assess Language Needs

- Identify languages in the service area.
- Identify & record primary languages of individuals served.
- Identify points of contact where language assistance is needed.
- Identify available resources.

Develop and Implement Written Policies

These policies must include methods for providing:

- Oral language assistance
- Translation of written materials
- Notice of the availability of language assistance to LEP persons
- Coordination of the language assistance programs



Oral Language Assistance

Contractors must provide:

- Language interpreters that are trained & competent
- Language assistance that is timely
- Language assistance at no cost to the LEP person
- Language assistance for those who cannot verbally communicate

Oral Language Assistance

Consumers should not be required to:

- Use family
 - Friends
- or
- Minor children as interpreters

Oral Language Assistance

A recipient/covered entity may expose itself to liability under Title VI if it requires, suggests, or encourages an LEP person to use friends or family members as interpreters, as this could compromise the effectiveness of the service. Use of such persons could result in a breach of confidentiality or reluctance on the part of individuals to reveal personal information critical to their situations. In a medical setting, this reluctance could have serious, even life threatening, consequences. In addition, family and friends usually are not competent to act as interpreters, since they are often insufficiently proficient in both languages, unskilled in interpretation, and unfamiliar with specialized terminology. Departmental policy prohibits the use of minors as interpreters.

Oral Language Assistance

If after a recipient/covered entity informs an LEP person of the right to free interpreter services, the person declines such services and requests the use of a family member or friend, the recipient/covered entity may use the family member or friend, if the use of such a person would not compromise the effectiveness of services or violate the LEP person's confidentiality. The recipient/covered entity should document the offer and declination in the LEP person's file. Even if an LEP person elects to use a family member or friend, the recipient/covered entity should suggest that a trained interpreter sit in on the encounter to ensure accurate interpretation.

In emergency circumstances, organization staff may not be able to offer free language services, and temporary use of family members or friends as interpreters may be necessary.

Types of Oral Language Assistance

Methods to provide oral language assistance includes the use of:

- Bilingual Staff
- Staff interpreters
- Contractors
- Volunteers
- Telephone language lines
- Tele-typewriter (TTY)

Written Translations

(a) The recipient/covered entity provides translated written materials, including vital documents, for each eligible LEP language group that constitutes ten percent or 3,000, whichever is less, of the population of persons eligible to be served or likely to be directly affected by the recipient/covered entity's program;

(b) Regarding LEP language groups that do not fall within paragraph (A) above, but constitute five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be directly affected, the recipient/covered entity ensures that, at a minimum, vital documents are translated into the appropriate non-English languages of such LEP persons. Translation of other documents, if needed, can be provided orally; and

Written Translations cont'd

(c) Notwithstanding paragraphs (A) and (B) above, a recipient with fewer than 100 persons in a language group eligible to be served or likely to be directly affected by the recipient/covered entity's program, does not translate written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral translation of written materials.

Safe Harbor Provisions

Safe Harbor Provisions are:

- Established by the Department of Health and Human Services as guidelines for
- Complying with LEP requirements for translations of documents

Safe Harbor Provisions

Safe Harbor Provisions state that:
For each language group with fewer than 100 persons, the entity must provide written notice of the right to receive oral interpretation of written materials in the LEP individual's primary language.

Safe Harbor Provisions

Safe Harbor Provisions State that:

- All written materials must be translated for each LEP group of 10% or 3,000 (whichever is less) of the eligible population.
- Vital documents must be translated for each LEP group of 5% or 1,000 (whichever is less) of the eligible population.

Vital Documents

Vital Documents include:

- Application/Enrollment forms
- Letters of notices about eligibility
- Letters of notices about changes in benefits
- Anything that requires a response from the consumer
- Medical or discharge information
- Recipient Rights, Grievance & Appeals and Customer Service Related educational materials

Notice of Language Assistance

Contractors must establish effective methods for notifying LEP persons of their right to receive language assistance at **no** cost.



Methods of Providing Notice

A vital part of a well-functioning compliance program includes having effective methods for notifying LEP persons regarding their right to language assistance and the availability of such assistance free of charge. These methods include, but are not limited to:

(a) Use of language identification cards which allow LEP beneficiaries to identify their language needs to staff and for staff to identify the language needs of applicants and clients. To be effective, the cards (e.g., "I speak cards") must invite the LEP person to identify the language he/she speaks. This identification must be recorded in the LEP person's file;

(b) Posting and maintaining signs in regularly encountered languages other than English in waiting rooms, reception areas and other initial points of entry. In order to be effective, these signs must inform applicants and beneficiaries of their right to free language assistance services and invite them to identify themselves as persons needing such services;

Methods of Providing Notice

(c) Translation of application forms and instructional, informational and other written materials into appropriate non-English languages by competent translators. For LEP persons whose language does not exist in written form, assistance from an interpreter to explain the contents of the document will be provided.

(d) Uniform procedures for timely and effective telephone communication between staff and LEP persons. This must include instructions for English speaking employees to obtain assistance from interpreters or bilingual staff when receiving calls from or initiating calls to LEP persons; and

(e) Inclusion of statements about the services available and the right to free language assistance services, in appropriate non-English languages, in brochures, booklets, outreach and recruitment information and other materials that are routinely disseminated to the public.

Staff Training

All staff must be trained to:

- Understand the policies and procedures
- Work effectively with LEP populations
- Provide effective language assistance services

Monitor Effectiveness

The language assistance program should be monitored to ensure:

- Policies and practices are effective
- Staff are knowledgeable about policies and practices
- Staff know how to implement policies and practices

Monitor Effectiveness (cont.)

The language assistance program should be monitored to ensure:

- LEP persons are aware of the availability of services and how to access them
- Corrective action is taken when an individual or systemic problem is identified

Compliance Reviews

Compliance to this standard will be reviewed and or monitored by the Agency's Departments of

- Consumer Safety and Advocacy
- Clinical and Program Services
- Performance Improvement



LEP Library

The LEP.gov site, managed by the Department of Justice's Coordination and Review Section, acts as a clearinghouse, providing and linking to information, tools, and technical assistance regarding limited English proficiency.

[Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency](#)