Rights of Immigrants & LEP Persons to Language Access

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Legal Obligation to Provide Access

Entities receiving assistance from the federal government must take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access to the programs, services, and information those entities provide.
Who has “limited English proficiency?”

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.

Who must comply?

• All programs and operations of entities that receive assistance from the federal government (i.e. recipients), including:
Who Must Comply?

- State agencies
- Local agencies
- Private and nonprofit entities
- Sub-recipients (entities that receive federal funding from one of the recipients listed above)

What is the legal authority?

- For recipients of federal financial assistance, the legal authority is Title VI of the 1964 Civil Rights Act
- For recipients of federal financial assistance and federal agencies, the legal authority is Executive Order 13166
Title VI of the 1964 Civil Rights Act

- "No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."


Lau v. Nichols
(US Supreme Court 1974)

- National origin discrimination includes discrimination based on a person's inability to speak, read, write, or understand English.
Executive Order 13166:
Improving Access to Services for Persons with Limited English Proficiency

- The Order covers all federal & federally assisted programs & activities
- Federal agencies must:

Executive Order 13166

Federal agencies must publish guidance on how their recipients can provide access to LEP persons & improve the language accessibility of their own programs.
Executive Order 13166

- Break down language barriers by implementing consistent standards of language assistance across federal agencies and amongst all recipients of federal financial assistance.

4 Factor Analysis

- Recipients of federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important government services. (The federal government has the same obligations as a result of Executive Order 13166.)
Individualized Assessment

• Each covered entity must conduct an individualized assessment that balances the following four factors:

4 Factor Analysis

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee/recipient
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 program to people's lives
4 Factor Analysis

4. The resources available to the grantee or recipient and costs.

Elements of an Effective LEP Policy

- Identifying LEP persons who need language assistance
- Identifying ways in which language assistance will be provided
Elements of an Effective LEP Policy

• Training staff
• Providing notice to LEP persons
• Monitoring and updating LEP policy

Language Assistance Services

• Written language services
• Translation of written materials
Language Assistance Services

• Bilingual staff
• Oral interpretation services
• Telephone interpreter lines
• Community volunteers

Payment for Services

• Persons with limited English proficiency cannot be required to pay for services required to ensure their meaningful, equitable access to programs, services, and benefits
The Bottom Line

- The bottom line is ensuring meaningful and equitable access to programs, services, and benefits to children, youth, and adults with limited English proficiency!