

# Office for Civil Rights

## Guidance to Federal Financial Assistance Recipients Regarding Title VI and the Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons - Summary

The U.S. Department of Health and Human Services has published revised Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient (LEP) Persons. The Revised LEP Guidance is issued pursuant to Executive Order 13166. It is effective immediately and replaces the Guidance issued August 30, 2000. You can print out a copy of the Guidance from OCR's website at <http://www.hhs.gov/ocr/lep> or contact one of the OCR Regional Offices listed below.

### **LEGAL AUTHORITY**

Title VI and Department of Health and Human Services regulations, 45 C.F.R. Section 80.3(b)(2), require recipients of Federal financial assistance from HHS to take reasonable steps to provide meaningful access to Limited English Proficient (LEP) persons. Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Recipients of HHS assistance may include hospitals, nursing homes, home health agencies, managed care organizations, universities and other entities with health or social service research programs, State, county, and local health agencies. It may also include State Medicaid agencies, State, county, and local welfare agencies, programs for families, youth, and children, Head Start programs, public and private contractors, subcontractors, and vendors, and physicians and other providers who receive Federal financial assistance from HHS.

### **DEFINITION OF LIMITED ENGLISH PROFICIENT INDIVIDUALS**

Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English may be LEP and may be eligible to receive language assistance with respect to the particular service, benefit, or encounter.

### **FACTORS USED TO DETERMINE THE TITLE VI OBLIGATION TO ENSURE MEANINGFUL ACCESS FOR LEP PERSONS**

Recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. The Guidance explains that the obligation to provide meaningful access is fact-dependent and starts with an individualized assessment that balances four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come into contact with the program; (3) the nature and importance of the program, activity or service provided by the recipient to its beneficiaries; and (4) the resources available to the grantee/recipient and the costs of interpretation/translation services. There is no "one size fits all" solution for Title VI compliance with respect to LEP persons, and what constitutes "reasonable steps" for large providers may not be reasonable where small providers are concerned.

### **USE OF FAMILY MEMBERS AND FRIENDS**

Some LEP persons may feel more comfortable when a trusted family member or friend acts as an interpreter. When an LEP person attempts to access the services of a recipient of federal financial assistance, who upon application of the four factors is required to provide an interpreter, the recipient should make the LEP person aware that he or she has the

option of having the recipient provide an interpreter for him/her without charge, or of using his/her own interpreter. Recipients should also consider special circumstances that may affect whether a family member or friend should serve as an interpreter, such as whether the situation is an emergency, and whether there are concerns over competency, confidentiality, privacy, or conflict of interest. Recipients cannot require LEP persons to use family members or friends as interpreters.

**VITAL DOCUMENTS**

Recipients can use the four factor analysis described above to determine if specific documents or portions of documents should be translated into the language of the various frequently-encountered LEP groups eligible to be served and/or likely to be affected by the recipient's program. Recipients should assess whether specific documents or portions of documents are "vital" to the program, information, encounter, or service involved and the consequences to the LEP person if the information in question is not provided accurately or in a timely manner. As with the LEP Guidance of other Federal agencies, the HHS Guidance provides recipients with a "safe harbor" that, if undertaken, will be considered strong evidence that the recipient has satisfied its written translation obligations.

**INTERPRETER/TRANSLATOR COMPETENCE**

The Guidance provides additional guidance on what to consider in determining interpreter and translator competency in particular contexts.

**ELEMENTS OF AN EFFECTIVE LANGUAGE ASSISTANCE PLAN**

If, after completing the four-factor analysis, a recipient determines that it should provide language assistance services, a recipient may develop an implementation plan to address the identified needs of the LEP populations it serves. Recipients have considerable flexibility in developing this plan. The Guidance provides five steps that may be helpful in designing such a plan: (1) identifying LEP individuals who need language assistance; (2) language assistance measures (such as how staff can obtain services or respond to LEP callers); (3) training staff; (4) providing notice to LEP persons (such as posting signs); and (5) monitoring and updating the LEP plan.

**VOLUNTARY COMPLIANCE EFFORT**

The Office for Civil Rights and HHS are committed to assisting recipients of HHS financial assistance in complying with their obligations under Title VI of the Civil Rights Act of 1964. HHS is committed to engaging in outreach to its recipients and to being responsive to inquiries from its recipients. HHS provides a variety of practical technical assistance to recipients to assist them in serving LEP persons so they are in compliance with the Title VI regulations. The requirement to provide meaningful access to LEP persons is enforced and implemented by the HHS Office for Civil Rights through the procedures identified in the Title VI regulations. These procedures include complaint investigations, compliance reviews, efforts to secure voluntary compliance, and technical assistance.

**FOR MORE INFORMATION**

Anyone who believes that he/she has been discriminated against because of race, color or national origin may file a complaint with OCR within 180 days of the date on which the discrimination took place. The OCR Regional Offices are listed below:

<p><b>Region I - CT, ME, MA, NH, RI, VT</b> Office for Civil Rights U.S. Department of Health &amp; Human Services JFK Federal Building - Room 1875 Boston, MA 02203 (617) 565-1340; (617) 565-1343 (TDD) (617) 565-3809 FAX</p>	<p><b>Region VI - AR, LA, NM, OK, TX</b> Office for Civil Rights U.S. Department of Health &amp; Human Services 1301 Young Street - Suite 1169 Dallas, TX 75202 (214) 767-4056; (214) 767-8940 (TDD) (214) 767-0432 FAX</p>
<p><b>Region II - NJ, NY, PR, VI</b> Office for Civil Rights U.S. Department of Health &amp; Human</p>	<p><b>Region VII - IA, KS, MO, NE</b> Office for Civil Rights U.S. Department of Health &amp; Human Services</p>

<p>Services  26 Federal Plaza - Suite 3313  New York, NY 10278  (212) 264-3313; (212) 264-2355 (TDD)  (212) 264-3039 FAX</p>	<p>601 East 12th Street - Room 248  Kansas City, MO 64106  (816) 426-7278; (816) 426-7065 (TDD)  (816) 426-3686 FAX</p>
<p><b>Region III - DE, DC, MD, PA, VA, WV</b>  Office for Civil Rights  U.S. Department of Health &amp; Human Services  150 S. Independence Mall West - Suite 372  Philadelphia, PA 19106-3499  (215) 861-4441; (215) 861-4440 (TDD)  (215) 861-4431 FAX</p>	<p><b>Region VIII - CO, MT, ND, SD, UT, WY</b>  Office for Civil Rights  U.S. Department of Health &amp; Human Services  1961 Stout Street - Room 1426  Denver, CO 80294  (303) 844-2024; (303) 844-3439 (TDD)  (303) 844-2025 FAX</p>
<p><b>Region IV - AL, FL, GA, KY, MS, NC, SC, TN</b>  Office for Civil Rights  U.S. Department of Health &amp; Human Services  61 Forsyth Street, SW. - Suite 3B70  Atlanta, GA 30323  (404) 562-7886; (404) 331-2867 (TDD)  (404) 562-7881 FAX</p>	<p><b>Region IX - AZ, CA, HI, NV, AS, GU, The U.S. Affiliated Pacific Island Jurisdictions</b>  Office for Civil Rights  U.S. Department of Health &amp; Human Services  90 7<sup>th</sup> Street, Suite 4-100  San Francisco, CA 94103  (415) 437-8310; (415) 437-8311 (TDD)  (415) 437-8329 FAX</p>
<p><b>Region V - IL, IN, MI, MN, OH, WI</b>  Office for Civil Rights  U.S. Department of Health &amp; Human Services  233 N. Michigan Ave. - Suite 240  Chicago, IL 60601  (312) 886-2359; (312) 353-5693 (TDD)  (312) 886-1807 FAX</p>	<p><b>Region X - AK, ID, OR, WA</b>  Office for Civil Rights  U.S. Department of Health &amp; Human Services  2201 Sixth Avenue - Mail Stop RX-11  Seattle, WA 98121  (206) 615-2290; (206) 615-2296 (TDD)  (206) 615-2297 FAX</p>