

U.S. Commission on Civil Rights Plan for Providing Access to Benefits and Services for Persons with Limited English Proficiency

Background

On August 11, 2000, President Clinton issued an Executive Order directing Federal agencies to ensure that their programs and activities be made accessible to persons with limited English proficiency (LEP). The Executive Order 13166, titled "Improving Access to Services for Persons with Limited English Proficiency," 65 FR 50121 (August 16, 2000), in Section 2 requires Federal agencies to develop and implement a plan for improving access to services and participation in federally conducted programs and activities to LEP individuals.

The U.S. Commission on Civil Rights is a Federal fact-finding agency authorized by Congress to investigate a broad range of civil rights, including voting rights complaints and discrimination or the denial of equal protection of the law based on race, color, national origin, religion, gender, age, or disability.

This document reiterates the Commission's work with LEP individuals. To meet its goal of promoting civil rights and ending discrimination, the Commission has reached out to millions of Americans who read and speak languages other than English and who may not be conversant in the English language. It has a long history of focusing on the civil rights of LEP persons. The Commission is currently producing a report on language barriers to government and social services facing LEP individuals. The report is expected to be completed in 2004. In 1997 the Commission issued a report titled *Equal Educational Opportunity and Nondiscrimination for Students with Limited English Proficiency: Federal Enforcement of Title VI and Lau v. Nichols*. This report is the third volume of the Equal Educational Opportunity Project Series, and examines civil rights enforcement and protections for students whose English is limited. In 1997 the Commission issued *Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination—Volume IV: The Miami Report*, which discusses the impact of language policies on race relations in Florida. State Advisory Committee (SAC) reports have also focused on LEP individuals. In 2001 the Maine SAC issued a report titled *Limited-English-Proficient Students in Maine: An Assessment of Equal Educational Opportunities*. In 1982 the New Hampshire SAC issued a report titled *Shortchanging the Language Minority Student*.

Summary

The Department of Justice (DOJ) has requested that the Commission submit its plan to improve the language accessibility of its federally conducted programs and activities and to take steps to implement the plan. The U.S. Commission on Civil Rights provides an array of services that can be made accessible to otherwise eligible persons who are not English proficient. The Commission is committed to improving the accessibility of these services to eligible LEP persons. To this end, the Commission has examined the services it provides and has developed this plan to give LEP persons meaningful access to its services, without unduly burdening the fundamental mission of the agency.

The factors that have been considered in determining what constitutes reasonable steps to ensure meaningful access include:

- number or proportion of LEP persons in the eligible service population;
- frequency with which LEP individuals come into contact with the program;
- importance of the service provided by the program; and
- resources available to the recipient.

The Commission's LEP plan:

- supports Executive Order 13166 by providing meaningful access to the Commission programs, benefits, services, and information for LEP individuals using the four-factor analysis recommended by DOJ;
- details the Commission's initiatives and plans over the next 12 months to improve access to its federally conducted programs and activities to eligible individuals who are LEP;
- provides clear, consistent direction in the delivery of efficient, effective, and caring service to LEP individuals;
- balances service needs of LEP individuals with the fiscal constraints of Commission operations; and
- provides a framework for resource allocation decisions in the context of all Commission business.

LEP Service Vision Statement

The U.S. Commission on Civil Rights strives to provide effective, efficient, and equitable service to all individuals regardless of their ability to speak, read, or write English. Service delivery options are available to LEP individuals, enabling them to communicate effectively with the Commission in person, over the phone, in writing, and through electronic media.

LEP Policy Elements

The Commission has taken a proactive approach to ensure that individuals can access its programs and services, regardless of their ability to communicate in English. The Commission's LEP policy principles include the following elements:

Stakeholder Consultation. Section 4 of Executive Order 13166 requires that stakeholders, such as LEP persons and their representative organizations, be consulted in connection with the development of implementation plans. The Commission has consulted with various LEP organizations. Comments were received from program offices that have predictable and periodic interaction with the LEP individuals.

Resource Allocation. The Commission will consider the needs of LEP individuals in the Commission's policies, such as administrative instructions, and long-range goals. Service needs of LEP individuals will be factors in the allocation of Commission resources and service delivery initiatives that the Commission can fully fund.

Service Delivery. LEP individuals have access to the Commission's services through direct contact with the headquarters offices, the Commission Web site, and through the Commission's network of regional offices and the national 800 number.

Bilingual Staffing. The most effective method for providing quality service to LEP individuals is through bilingual contact employees. The standard for field office staffing is to achieve at least proportional representation for each language group constituting a significant portion of the workloads generated in an office's service area. Currently there are five employees fluent in Spanish at the Commission headquarters, four at the Western Regional Office, two at the Rocky Mountain Regional office, and one at the Eastern Regional Office. Two employees are fluent in Chinese at the headquarters office and two are fluent in French. The Commission will take reasonable steps, appropriate to the circumstances, to ensure that it provides interpretative services at a level of fluency, comprehension, and confidentiality appropriate to the specific nature, type, and purpose of information at issue.

Qualified Interpreter Services. The Commission will provide an interpreter to an LEP individual if he/she requests language assistance, or it is evident that such assistance is needed. LEP persons will be advised that they may secure the assistance of an interpreter of their own choosing, if they wish, at their own expense.

If an LEP individual prefers to provide his/her own interpreter, the Commission will use this interpreter if he/she can provide meaningful access for the individual, if the interpreter is acting in the claimant's best interest, and there is no indication of fraudulent activity.

Public Information. The Commission recognizes the value of public information to educate, improve access to its services, address LEP concerns, promote program integrity, and build public confidence in its programs. The Commission produces public information materials in languages other than English and uses national and local media to provide this information to LEP individuals. LEP individuals should have reasonable notices of the availability of these services.

Written Communications. The Commission will evaluate the feasibility of translating the most commonly accessed Commission publications into languages other than English. In

order to facilitate access to its programs and to improve administrative effectiveness, the Commission places public information materials on its Web site.

Written procedures for accessing telephonic language assistance resources will be inserted in the Commission telephone book, posted at every point of public contact, and distributed to all employees whose work requires them to come in contact with the public.

The Commission is working to provide copies of some reports in Spanish, including *Getting Uncle Sam to Enforce Your Civil Rights*, a publication directing individuals to Federal Government offices and advocacy groups that can assist them in protecting their civil rights. This guide is being translated into Spanish at present, according to the Office of Civil Rights Evaluation. As funds allow, there will be translations into other languages.

The Commission's principal programs serve various LEP populations depending on the subject matter of individual reports. The Commission proposes to make a demographic profile of the individual LEP populations when it prepares proposals to issue reports on subjects of interest to these populations. Privacy Act release forms published by the Commission for the purpose of soliciting information about or allegations of possible violations of civil rights statutes will be translated into the language of the LEP group affected by a report. Executive summaries will be prepared of selected reports and a translation of the summaries will be provided, depending on need and demand.

Plans are underway to change Administrative Instruction 1-6, National Office Program Development and Implementation. This administrative instruction will provide that each project proposal will analyze each particular project to determine if reasonable steps have to be taken to ensure meaningful access by LEP individuals. In accordance with Executive Order 13166 and guidance from the Department of Justice, an analysis will be done based on the four factors advocated by DOJ. If the proposal concludes that LEP individuals should have meaningful access to the project, then it will recommend language assistance measures, both written and verbal.

Similar language will be incorporated into Administrative Instruction 5-7, Regional Program Development and Implementation, for regional project proposals that are sent to the Staff Director for review. For proposals of State Advisory Committee reports, data on relevant LEP populations will be corroborated by examining the school of data on the corresponding LEP population.

The Commission has a complaint referral system. The Commission does not act as an advocate for complainants in claims of discrimination, nor does the Commission have enforcement powers. However, it does direct complainants to other enforcement agencies for further processing of their complaints. Instructions for filing a complaint are currently translated into Spanish.

Electronic Information. The Commission maintains a Web site accessible to the public. Where documents in a language other than English are placed on, or accessible through the Web site, information on their availability shall be included in this language on the Web site home page. The Commission Web site currently provides in Spanish, background information about the Commission, instructions on filing a discrimination complaint with the Commission, and instructions on contacting the Commission. This information is accessible by a link in Spanish on the Commission home page and also through GSA's FirstGov en Español Web site.

Listening to LEP Individuals. The mission of the Commission is to report to the President and Congress on findings regarding the state of civil rights in the United States. The purpose of the State Advisory Committees is to give advice to the Commission. As a result, the Commission has not systematically collected or recorded primary language data for individuals who benefit from Commission programs.

The Commission has mechanisms, such as a comment and suggestion system on its Web site, to assess the quality of service provided to LEP individuals, recipients, and beneficiaries.

Technology. When evaluating existing technology and new or emerging technologies, the needs of LEP individuals will be considered.

Training. Employees who routinely interact with the public will be provided with written information on the scope and nature of available or planned language assistance services. The Office of Human Resources will develop and incorporate into new employee orientation and/or training programs, information on the nature and scope of language assistance services.

Monitoring Services. This language assistance plan will be periodically reassessed to ensure that the scope and nature of language assistance services provided under the plan reflect updated information on relevant LEP populations, their language assistance needs, and their experience under this plan.

The Commission monitors its LEP policies and practices to ensure that they continue to be effective. The Commission will periodically re-evaluate the language needs of LEP individuals to determine shifts in the non-English-speaking demands. The Commission will track LEP workload data on an ongoing basis to ascertain needs and allocate resources accordingly. These data will be incorporated into the agency's budget estimate plan submitted to OMB annually.

Funding. Execution of the commitments in this plan will depend on the level of Commission resources and the relative costs that would be imposed on the Commission. The Commission will explore, on an ongoing basis, the most cost-effective means of delivering competent and accurate language services before limiting services due to resource limitations.