

Eliminating Disparities: Multicultural Strategic Summit

Improving Meaningful Access to
Services for Persons with Limited
English Proficiency (LEP)

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Hilton Washington Hotel
Washington, DC

Title VI of the Civil Rights Act of 1964

- Title VI is one of 11 Titles in the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.
- Extensive case law affirms the obligation of recipients of federal financial assistance to ensure that “Limited English Proficient” (LEP) persons can meaningfully access federal-assisted programs.
- The Title VI regulations prohibit both intentional discrimination and policies and practices that appear neutral but have a discriminatory effect.

Limited English Proficiency (LEP)

- Under Title VI and its implementing regulations, health providers who receive federal financial assistance have a legal obligation to ensure that people with limited English skills can meaningfully access health care. The failure to provide effective language assistance services amounts to national origin discrimination.
- The failure of health providers to ensure meaningful access for people with limited English skills is one of the most prevalent civil rights problems in health care. The failure to ensure meaningful access for people with limited English skills can have serious, even life or death, consequences.

Who is a Limited English Proficient (LEP) Individual?

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

Title VI of the Civil Rights Act of 1964, U.S.C. 2000 was enacted as part of the landmark Civil Rights Act of 1964

- Section 601 provides that no person 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.”
- Section 602 authorizes and directs federal agencies that are empowered to extend federal financial assistance to any program or activity “to effectuate the provisions of [section 601] by issuing rules, regulations, or orders of general applicability.”
- Simple justice requires that public funds, to which all taxpayers of all races [colors, and national origins] contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial [color or national origin] discrimination.

Selecting Language Assistance Services

- Recipients have two main ways to provide language services: oral and written language services (interpretation and translation, respectively). Regardless of the type of language service provided, quality and accuracy of those services is critical to avoid serious consequences to the LEP person and the recipient. Recipients have substantial flexibility in determining the appropriate mix.
- A systems approach would place the spotlight on the training of health professionals, research on the delivery of services to LEP persons, and the translation of research into practice.

Four Factors that Recipients of Federal Financial Assistance Should Apply to Assess Language Needs and Decide What Reasonable Steps They Should Take to Ensure Meaningful Access for LEP Persons

- (1) **The number or proportion of LEP persons served or encountered in the eligible service population. The greater the number or proportion of LEP persons, the more likely language services are needed.**
- This population will be program-specific, and includes persons who are in the geographic area that has been approved by a federal grant agency as the recipients service area.

Continuation of the Four Factors

- (2) **The Frequency With Which LEP Individuals Come in Contact With the Recipient's Program, Activity or Service**
- **Recipients** should assess, as accurately as possible, the frequency with which they have or should have contact with an LEP individual from different language groups seeking **assistance**. For, example frequent contacts with Spanish-speaking who are LEP may require certain **assistance** in Spanish.

Continuation of the four factors

- (3) **The Nature and Importance of the Recipient's Program, Activity, or Service**
- The more important the recipient's activity, information, service or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed.
- A recipient needs to determine whether denial or delay of access to services and information could have serious or even life-threatening implications for the LEP individual.

Continuation of the 4 factors

- (4) **The Resources Available to the Recipient and Costs**
- A recipient's level of resources and the costs that would be imposed on it may have an impact on the nature of the steps it should take to comply with Title VI.
- Recipients should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource limitations.