

Laws Governing Law Enforcement Agency Provision of Language Assistance to Limited English Proficient Persons

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Title VI of the Civil Rights Act of 1964; 42 U.S.C. § 2000 et seq; 45 CFR §80, Nondiscrimination.
<http://www.justice.gov/crt/about/cor/coord/titlevi.php>

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.

Executive Order 13166 Issued by President Clinton August 11, 2000: Improving Access to Service for Persons with Limited English Proficiency
<http://www.lep.gov/13166/eo13166.html>, and

U.S. Department of Justice Clarifying Memorandum Regarding Limited English Proficiency and Executive Order 13166 (October 26, 2001)
<http://www.justice.gov/crt/about/cor/lep/Oct26memorandum.pdf>

The LEP Executive Order (Executive Order 13166) ensures that, consistent with Title VI, persons with limited English proficiency ("LEP") have meaningful access to federally conducted and federally funded programs and activities. Federal government agencies that provide funding and other assistance are required to inform and provide guidance to all grantees, funded entities or recipients of federal assistance on the application of Title VI to recipients of federal funding and assistance in their contact with persons who are LEP. Guidance and information provided by Federal government agencies to recipients of federal grants, funds and assistance must be consistent with LEP Guidance issued by the DOJ. Recipients of federal funding and assistance are to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons consistent with, and without unduly burdening, the fundamental mission of the agency. Where the denial or delay of access may cause life or death situations or other serious implications, the importance of the full and effective delivery of LEP services is at its zenith.

DOJ Department of Justice Guidelines: Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons
<http://www.justice.gov/open/language-access-plan.pdf>

DOJ Guidelines set forth the minimum requirements that programs receiving federal financial grants, funds and assistance must meet. The policy requires agencies to take *reasonable steps* to provide

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timely, meaningful access to LEP persons to the services and benefits the department, agency or organization provides in all of its conducted programs or activities. Personnel shall provide free language assistance services to LEP individuals whom they encounter, including whenever an LEP individual requests language assistance services. Personnel are also required to inform members of the public --

- That language assistance services are available free of charge to LEP persons; and
- That agency personnel will provide language interpretation and the agencies' services to LEP persons

Office of Civil Rights Policy Guidance, 65 Fed. Reg. 52762 (2000), Department of Health and Human Services, Office of Civil Rights, Policy Guidance on the Prohibition against National Origin Discrimination as it Affects Persons with Limited English Proficiency. Origin Discrimination (August 30, 2000)

<http://www.hhs.gov/ocr/civilrights/resources/laws/summaryguidance.html>

The Department of Health and Human Services (HHS) publishes revised Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons ("Revised HHS LEP Guidance"). This revised HHS LEP Guidance is issued pursuant to Executive Order 13166 above. The commissioner shall promulgate regulations applicable to all individual and group policies of health insurance establishing standards and requirements to provide insurers with appropriate access to translated materials and language assistance in obtaining covered benefits. It is required that all vital documents be translated into an indicated language.

Omnibus Crime Control and Safe Streets Act of 1968. Nondiscrimination provision of the Safe Streets Act 42 U.S.C. § 3789d(c)(1).

<http://www.justice.gov/crt/about/spl/42usc3789d.php>

“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... funded in whole or in part with funds made available under this chapter.”

The funds to which this provision applies are described down below.

To Whom Does it Apply?

- Federal agencies
- Federally assisted programs
- Any program or activity receiving federal financial assistance

Specific funding programs covered by the Omnibus Crime Control and Safe Streets Act of 1968 include all programs, agencies and organizations receiving funding or assistance from:

- Bureau of Justice Assistance (BJA)

- Bureau of Justice Statistics (BJS)
- Community Capacity Development Office (CCDO)
- Drug Courts Program Office (DCPO)
- National Institute of Justice (NIJ)
- Office for Victims of Crime (OVC)
- Office of Juvenile Justice and Delinquency Prevention (OJJDP)
- Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office (SMART)
- Office on Violence Against Women (VAWA)

Americans with Disabilities Act (ADA)
<http://www.ada.gov/archive/adastat91.htm>

Title II of the ADA states:

§ 2:21 that “no qualified individual with a disability may, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” § 2:32 further states that the obligation of public entities to provide necessary auxiliary aids and services is not limited to individuals with a direct interest in the proceedings or outcome. The term “auxiliary aids and services” includes:

- (1) qualified interpreters on-site or through video remote interpreting (VRI) services, or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
- (2) qualified readers, taped texts, audio recordings, Braille materials and displays, or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;
- (3) acquisition or modification of equipment or devices; and
- (4) other similar services and actions.

State Laws and State Constitutions

Some states have state laws or state constitutional requirements requiring language access.

One example follows:

New Mexico Constitution
<http://sos.state.nm.us/pdf/2007nmconst.pdf>

Article 2, Section 14 states that in all criminal prosecutions, the accused shall have the right to appear and defend himself in person . . . to have the charge and testimony interpreted to him in a language that he understands . . . , and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

Article 7, section 3:
Contains language confirming the rights of persons in the State of New Mexico to not be “*restricted, abridged or impaired on account of religion, race, language or color, or inability to speak, read or write the English or Spanish languages...*”