

Title VI Summary

On August 11, 2000, then President William (Bill) J. Clinton signed Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." The Executive Order requires Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP Persons can have meaningful access to them. The Executive Order also requires that the Federal agencies work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.

Background

Title VI and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color or national origin under any program or activity that receives Federal financial assistance. The courts have held that Title VI prohibits recipients of Federal financial assistance from denying LEP persons access to programs, on the basis of their national origin.

In late 2001, the state of North Carolina underwent a compliance review conducted by the Office for Civil Rights (OCR), U.S. Department of Health and Human Services (USDHHS), Region VI in Atlanta. The information and data request was coordinated through the North Carolina Department of Health and Human Services, Office of General Counsel's Compliance Attorney. Information from all of North Carolina's county social services and health departments were collected and forwarded to OCR. In addition, OCR conducted five on-site county visits in the state. The on-site visits were to social services and health departments in the following counties: Wake, Johnston, Randolph, Chatham and Forsyth counties. In May of 2002, a "preliminary assessment" was issued by the Office for Civil Rights, which stated that the state of North Carolina would most likely be found out of compliance with Title VI based upon the five on-site county visits. The Secretary of the North Carolina Department of Health and Human Services on August 8, 2002 requested a "voluntary compliance agreement (VCR)" between the department and the USDHHS based upon the "preliminary assessment" letter.

The North Carolina Department of Health and Human Services signed a voluntary compliance agreement with the USDHHS in 1994, which included monitoring the compliance of Title VI within the department and counties that received federal funding. This agreement has been revised and a second VCR was signed between the Department and OCR in April of 2003. After signing the second VCR, the Secretary signed the Department's Title VI Language Access Policy, which will be offered to the counties to adopt or use as a template for their own plans prior to signing the required compliance agreement with the state.

The Title VI Language Assistance Obligation

Any organization (North Carolina Department of Health and Human services and all county social services and health departments throughout the state) or individual that receives Federal financial assistance, directly or indirectly, through either a grant, contract or subcontract, is covered by Title VI. Examples of covered entities include hospitals, nursing homes, home health agencies, HMOs, health services providers, and human services organizations. All organizations Or individuals that are recipients of Federal financial assistance from HHS (federal agency) have an obligation to ensure that LEP persons have meaningful and equal access to benefits and services.

Under Title VI, recipients of Federal financial assistance from HHS must take steps to ensure that LEP persons can meaningfully access health and social services. A program of language assistance should provide for effective communication between the service provider and the LEP person so as to facilitate participation in, and meaningful access to services.

Compliance With the Language Access Requirement - Summary of Guidance

The key to ensuring meaningful access for LEP persons is effective communication. An agency or provider can ensure effective communication by developing and implementing a comprehensive written language assistance program that includes policies and procedures for identifying and assessing the language needs of its LEP applicants/clients, and that provides for a range of oral language assistance options, notice to LEP persons of the right to language assistance, periodic training of staff, monitoring of the program and, in certain circumstances, the translation of written materials.

Agencies and providers have a number of options for providing oral language assistance. Which option to use will depend on a variety of factors including the frequency of need and size of the population(s) being served. Examples of the options available include:

- Hiring bilingual staff for patient and client contact positions
- Hiring staff interpreters
- Contracting for interpreter services
- Engaging community volunteers
- Contracting with a telephone interpreter service

The necessity to translate written documents also may vary depending on several factors including the size of the population(s) being served and the size of the agency or provider. As part of its overall language assistance program, an agency or provider must develop and implement a plan to provide written materials in languages other than English where a significant number or percentage of the population eligible to be served, or likely to be directly affected, by the program needs services or information in a language other than English to communicate effectively. If the number or percentage of the population eligible to be served is not significant, then the agency or provider may not need to translate written documents. Even when written translations are not dictated by need, agencies and providers still must provide oral interpretation of written documents, if necessary, to ensure meaningful access for a LEP person.

Examples of practices that may violate Title VI are:

- Providing services to LEP persons that are more limited in scope or are lower in quality than those provided to other persons;
- Subjecting LEP persons to unreasonable delays in the delivery of services;
- Limiting participation in a program or activity on the basis of English proficiency;
- Providing services to LEP persons that are not as effective as those provided to those who are proficient in English; or
- Failing to inform LEP persons of the right to receive free interpreter services and/or requiring LEP persons to provide their own interpreter.

Compliance and Enforcement

OCR will enforce recipients' responsibilities to LEP beneficiaries through procedures provided for in the Title VI regulations. These procedures include complaint investigations, compliance reviews, efforts to secure voluntary compliance and

technical assistance. OCR will always provide recipients with the opportunity to come into voluntary compliance prior to initiating formal enforcement proceedings. In determining compliance with Title VI, OCR's concern will be whether the recipient's policies and procedures allow LEP persons to overcome language barriers and participate meaningfully in programs, services and benefits. A recipient's appropriate use of the methods and options discussed in the guidance will be viewed by OCR as evidence of a recipient's intent to comply with Title VI.

If you would like additional information or have questions about Title VI, please feel free to contact:

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