

Limited English Proficiency

The United States Department of Justice has just issued a reminder that entities that receive federal financial assistance are required to provide meaningful access to their services, programs and facilities to person with limited English proficiency (LEP). Although the reminder was specifically addressed to state courts, the United States Department of Housing and Urban Development (HUD) has reissued the reminder to housing providers as well.

The United States Supreme Court has held that failing to take reasonable steps to ensure meaningful access for LEP persons is a form of national origin discrimination prohibited by Title VI of the Civil Rights Act of 1964. In particular

- The requirement to provide language assistance to LEP individuals applies to all recipients of federal financial assistance, regardless of conflicting state or local laws.
- When meaningful access requires interpretation, interpreters should be provided at no cost to the persons involved.
- Budgeting adequate funds to ensure language access is essential.
- While costs are a consideration in determining what language assistance is reasonably required, fiscal pressures do not provide an exemption from civil rights requirements.
- Recipients of federal financial assistance should develop, and periodically update, a written LEP plan that describes their language assistance services and explains how staff and LEP persons can access those services.
- Recipients who are not fully compliant with the LEP guidance issued by the federal government should be making steady progress toward becoming fully compliant.

Who Is Covered?

For purposes of these regulations all recipients of federal financial assistance are covered by these requirements. HUD regulations specify that this includes any entity that receives grants, training, use of equipment, donations of surplus property, and other assistance. At a minimum it includes state and local governments, public housing agencies, assisted housing providers, and any other entities that receive funds directly or indirectly from HUD, including recipients of CDBG, HOME and HOPE VI funding. Any entity that receives such funding must ensure that all parts of its programs comply with this requirement and not merely the portion that is covered by the federal funding.

What Is Required?

Recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While this is designed to be a flexible and fact dependent standard, it initially requires an individualized assessment that balances (1) the number or proportion of LEP persons likely to be encountered by the program; (2) the frequency within which LEP persons come into contact with the program; (3) the nature and importance of the program or activity to the LEP persons' lives; and the resources available to the grantee/recipient and costs.

After applying these factors the grantee/recipient must determine which kinds of language assistance are sufficient for different types of programs and activities that it provides. Examples of how to balance these needs and comply with these LEP requirements is discussed at <http://edocket.access.gpo.gov/2007/pdf/07-217.pdf>. HUD also provides a substantial array of rental-related documents translated into a variety of languages commonly required by LEP persons. Those documents can be found at <http://www.hud.gov/offices/fheo/promotingfh/lep.cfm#forms>.