

# Meaningful Language Access Under Title VI

## Recent Legal Developments

U.S. Department of Justice  
Civil Rights Division



## Topics for Today

- ❖ **Brief Language Access Refresher**
- ❖ **Discussion of Recent Developments in**
  - **Agency filings and related court decisions**
  - **Settlements**
  - **Agency Rulemaking and Guidance**

## Where Do Language Access Protections Come From?

- ❖ 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.
  
- ❖ **Title VI, section 601; 42 U.S.C. § 2000d**

## National Origin and LEP

- ❖ National origin discrimination includes failing to provide LEP individuals “meaningful access” to recipient programs.
  - *Lau v. Nichols*, 414 U.S. 563 (1974)

## Executive Order 13166

- ❖ Federal agencies providing federal financial assistance should issue guidance to recipients regarding their legal obligation to ensure meaningful access for LEP persons under Title VI.
- ❖ <http://go.usa.gov/cvejm>

## DOT LEP Guidance

*Policy Guidance Concerning Recipient's Responsibilities to Limited English Proficient (LEP) Persons*

70 Fed. Reg. 74,087 (Dec. 14, 2005)

- ❖ **Describes the language access obligations of recipients, as well as federal agencies.**

## Refresher Terms

- ❖ Limited English Proficient (LEP)
- ❖ Language Access
- ❖ Language Assistance Services
- ❖ Meaningful Access

## What Are Reasonable Steps?

### Four-Factor to Guide How (NOT *whether*) to Provide Meaningful Access

1. The number or proportion of LEP persons served or encountered in the eligible service population
2. The frequency with which LEP individuals come in contact with the program
3. The nature and importance of the program, activity, or service provided by the program
4. The resources available to the recipient

**Quiz: Can a recipient demonstrate compliance with Title VI by showing that it is using the four-factor analysis?**

- A. Yes
- B. No

## **Recent Agency Filing and Decision**

*Faith Action for Community Equity v. Hawai'i*,  
No. 13-00450 SOM/RLP

- DOJ filed two statements of interest on behalf of DOT – <http://go.usa.gov/cvepe>
- Court denied Defendants' Motion to Dismiss and Motion for Summary Judgment
- Matter ultimately settled

## **Quiz: Can a recipient defend a Title VI lawsuit by pointing to a lack of complaints from the public or prior findings from the funding agency?**

- A. Yes, a lack of complaints from the public is a defense to the notice requirement
- B. Yes, a lack of findings from the funding agency is a defense to the notice requirement
- C. Both A and B
- D. None of the above

## **Recent Agency Settlement**

Washington State Department of Labor and Industries (L&I)

- Departments of Justice and Labor were parties to the Agreement – <http://go.usa.gov/cveGY>
- LEP workers alleged that they were subject to national origin discrimination in the state's workers' compensation program.

## Recent Agency Rulemaking and Guidance

- ❖ HHS Section 1557 of the Patient Protection and Affordable Care Act  
<http://go.usa.gov/cveed>
- ❖ DOL Workforce Innovation and Opportunity Act NPRM  
<http://go.usa.gov/cveeF>
- ❖ DOE and DOJ English Learner Tool Kit  
<http://go.usa.gov/cvet3>

## LEP Resources

- ❖ Federal Interagency Working Group on Limited English Proficiency  
[www.lep.gov](http://www.lep.gov)
- ❖ Title VI and LEP Videos  
<http://go.usa.gov/EFi>
- ❖ FCS LEP Agreements and Settlements  
<http://go.usa.gov/KTh>

## DOT LEP Resources

- ❖ Implementing DOT's LEP Guidance, FTA  
<http://go.usa.gov/ZFSG>
- ❖ FTA Circular C 4702.1B, Chp. I-3 and III-6,  
Appendix M  
<http://go.usa.gov/ZFhR>

## Contact Information



**Alyssa Lareau**

Attorney

Federal Coordination and Compliance Section (FCS)

Civil Rights Division

U.S. Department of Justice

950 Pennsylvania Avenue NW (NWB)

Washington, DC 20530-0001

Phone: (202) 305-2994

Fax: (202) 307-0595

[Alyssa.Lareau@usdoj.gov](mailto:Alyssa.Lareau@usdoj.gov)