



Office of the Attorney General

Washington, D.C. 20530

June 28, 2010

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM:  THE ATTORNEY GENERAL

SUBJECT: Language Access Obligations Under Executive Order 13166

It is the policy of the Department of Justice to ensure that limited English proficient (LEP) persons can meaningfully access all programs and activities conducted both by the Department and by entities receiving funding from the Department. This policy is required by Executive Order 13166,¹ issued in August 2000. A decade later, we have much work ahead of us to transform policy into practice and make the Executive Order's mandate a reality. This memorandum outlines my plan for improving Departmental compliance with the Executive Order's goal of language access.

The Executive Order has two broad objectives: The first requires each federal agency to develop and implement a system to ensure that LEP individuals can access the agency's federally conducted programs and activities; the second requires federal agencies providing federal financial assistance to issue guidance to recipients of such assistance regarding their legal obligation to ensure meaningful access for LEP persons under the national origin nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, and implementing regulations. In short, Executive Order 13166 tasks the Department with improving accessibility for LEP persons in everything that we do on the Departmental level, and ensuring that those entities that receive funding from us do the same.

In the weeks and months ahead, each component will be responsible for creating and implementing its own language access plan. I have asked Tom Perez, the Assistant Attorney General for the Civil Rights Division, and Lee Lofthus, Assistant Attorney General for Administration, to co-chair a Departmental Language Access Working Group, to guide and oversee component efforts. The Working Group shall consist of representatives from each component, and representatives from my office and the offices of the Deputy Attorney General and the Associate Attorney General. I ask that you designate a representative from your component to serve on the Department's Language Access Working Group by forwarding the name of your representative within two weeks of the date of this memorandum to Mark Kappelhoff, Acting Chief of the Coordination and Review Section of the Civil Rights Division, at 202-307-2222 or Mark.Kappelhoff@usdoj.gov.

¹ 65 Fed. Reg. 50121 (August 16, 2000).

Representatives are responsible for a number of important tasks, including: (1) serving as the component's language access coordinator; (2) assessing component operations for LEP needs and gaps in service; and (3) creating a component language access plan, along with policies and protocols to implement the plan, in accordance with the standards set forth by the co-chairs of the Working Group. Representatives will submit component LEP plans for the Working Group's approval, on a schedule to be determined by the co-chairs. Once all plans are reviewed and approved and the larger Departmental LEP plan is assembled, the Working Group will oversee implementation of the plans. The Working Group's ongoing responsibilities will involve periodically reassessing LEP needs and component compliance with LEP policies; reviewing and updating plans and policies; and ensuring that staff LEP training and recipient enforcement efforts remain vigorous.

As you commence the planning process and consider the extent to which your individual components interact with LEP people, keep in mind the myriad number of ways in which the Justice Department does business. Every day, Department staff interview witnesses, victims, and defendants in civil, criminal, and administrative cases and investigations; we communicate with inmates who seek to access prison grievance procedures, counseling, health services, religious and other accommodations, and educational programming; we hold immigration hearings, review immigration judges' determinations, generate correspondence related to these activities, and defend administrative immigration decisions in federal court; we maintain hotlines and establish complaint procedures for members of the public; we host web pages containing important information; we transport prisoners between facilities and to court; we are accountable for communications between trustees and debtors, ensure that debtors understand information on bankruptcy, and oversee the credit counseling and debtor education process; we conduct outreach and produce brochures related to crime victims' rights, trafficking in persons, police misconduct, predatory telemarketing, and a host of other important issues. The list of potential interactions with LEP individuals is as long as our functions are broad, but all of these examples point to a singular reality: our mission depends on accurate communication with members of the public, regardless of their level of English proficiency.

Please refer to the attached supplement for resources and further guidance on our language access efforts. Should you or your staff require further assistance or support in implementing the goals of this memorandum, please do not hesitate to contact Mark Kappelhoff, in the Civil Rights Division, at (202) 307-2222.

Thank you for your continued commitment to ensuring that LEP individuals have meaningful access to the work of the Department and its funding recipients.

**SUPPLEMENTARY GUIDANCE REGARDING THE ATTORNEY GENERAL'S
MEMORANDUM TO DEPARTMENT OF JUSTICE COMPONENTS ON
EXECUTIVE ORDER 13166 COMPLIANCE**

(1) *Language Access Working Group Duties:*

Members of the Working Group should, among other things, identify barriers to language access; consult with entities representing LEP interests; formulate policies and protocols to overcome the barriers to meaningful language access; establish quality control measures; review component plans for adherence to expected standards; ensure that components meet benchmarks for staff training, monitoring compliance, and updating plans; ensure consistency within the agency on its federally assisted enforcement activities; and be accountable for implementation.

(2) *Component Language Access Coordinator Duties and Component Responsibilities:*

The language access coordinator for each component shall assess the component's operations for LEP needs and gaps in service, and respond accordingly by creating a component LEP plan, policies, and protocols that reflect the standards set forth by the co-chairs of the Working Group. The coordinator should evaluate and update the component's current response to LEP needs by, among other things, conducting an inventory of languages most frequently encountered, identifying the primary channels of contact with LEP community members (whether telephonic, in person, correspondence, web-based, etc.), reviewing component programs and activities for language accessibility, reviewing plans and protocols, and consulting with outside stakeholders. The coordinator shall also oversee component staff training efforts.

Each component should ensure that its in-house and contract language services, directory of translated documents, signs, and web-based services meets current language needs, as determined by its language access coordinator. Components may need to update program operations, hiring practices, services provided, outreach activities, and other mission-specific activities to reflect current language needs. Components shall facilitate the language access coordinator's duties by committing additional staff and resources to assist the coordinator, as is reasonable and necessary. Components shall also cooperate fully with the language access coordinator's efforts by providing him/her with necessary information, compiling data, and following any recommendations that the LEP coordinator deems necessary for compliance.

In addition to working with the language access coordinator to update component LEP services and draft a responsive and comprehensive LEP Plan, components should ensure that staff has the tools and knowledge necessary to provide

meaningful access. Staff should be able to, among other tasks, identify LEP contact situations, determine primary language of LEP individuals, and effectively utilize available options to select quality language services. Staff should also be aware of all available options for bridging language barriers in interpersonal, electronic, print, and other methods of communication between the component and LEP individuals. Staff should be apprised of the Language Access Working Group and its mission.

Components that provide federal financial assistance to state and local governments and other entities, whether by way of funding, in kind assistance, training, detail of personnel, or other assistance, should ensure that recipients of such assistance are complying with their Title VI nondiscrimination obligations. Components have a variety of mechanisms for securing compliance, including, but not limited to, executing assurances of nondiscrimination, conducting periodic audits, conducting complaint-based investigations, and selecting recipients for compliance reviews.

(3) *Resources:*

- (a) Executive Order 13166:
<http://www.lep.gov/13166/eo13166.html>
- (b) Department of Justice LEP Guidance:
<http://www.justice.gov/crt/cor/lep/DOJFinLEPFRJun182002.php>
- (c) Website of the Federal Interagency Working Group on LEP: <http://www.lep.gov>
- (c) Law Enforcement Planning Tool:
http://www.lep.gov/Law_Enforcement_Planning_Tool.htm
- (d) Article on overcoming language barriers in Police Chief magazine:
http://policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=861&issue_id=42006
- (e) Corrections Planning Tool:
http://www.lep.gov/resources/LEP_Corrections_Planning_Tool.htm
- (f) United States Attorneys' Bulletin, September 2008, article on Language Access at United States Attorneys' Offices entitled "Linguistic Diversity and Its Implications for United States Attorneys' Offices":
http://www.justice.gov/usao/eousa/foia_reading_room/usab5605.pdf
- (g) Top Tips from responses to the 2006 language access survey of federal agencies:
http://www.lep.gov/resources/2008_Conference_Materials/TopTips.pdf
- (h) The 2006 Language Access Survey:

http://www.lep.gov/resources/2008_Conference_Materials/FedLangAccessSurvey.pdf

- (i) Department of Justice 2001 Implementation Plan (no longer current, but informative): <http://www.justice.gov/crt/cor/lep/dojimp.php>
- (j) GSA Language Services Schedule:
http://www.gsa.gov/gsa/cm_attachments/GSA_DOCUMENT/LanguageSched_R2FILE_0Z5RDZ-i34K-pR.pdf
- (k) I Speak Language Identification flashcards:
<http://www.lep.gov/ISpeakCards2004.pdf>
- (l) LEP rights brochure: http://www.lep.gov/resources/lep_aug2005.pdf