

Fair Housing and Limited English Proficiency (LEP)



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How does this relate to Fair Housing?



☞ The Fair Housing Act prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, **national origin**, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability.

What is National Origin Discrimination?



“Laws prohibiting national origin discrimination make it illegal to discriminate because of a person's **birthplace, ancestry, culture** or **language**. This means people cannot be denied equal opportunity because they or their family are from another country, because they have a name or accent associated with a national origin group, because they participate in certain customs associated with a national origin group, or because they are married to or associate with people of a certain national origin.”

How does immigration status impact fair housing rights/responsibilities?



It doesn't. Every "Person" in the U.S. is covered by the Fair Housing Act.

"Person" includes one or more individuals, corporations, partnerships, or associations.

Immigration Status



- ❧ Discrimination is treating someone differently *because* they are a member of a protected class and immigration status does not affect that protection
- E.g., not lending on the same terms *because* of someone's race = violation of the Fair Housing Act regardless of immigration status
 - E.g., not renting to someone *because* they are Muslim = violation of the Fair Housing Act regardless of immigration status

What is Limited English Proficient (LEP)?



- ☞ Census Bureau defines Limited English Proficiency as speaking English “less than very well”
- ☞ The entire LEP population grew by 52% between 1990 and 2000, from 14 million people to 21.3 million people
- ☞ LEP growth is fastest in states with greatest immigrant growth

LEP and Title VI



∞ Prohibits discrimination on the bases of:

1. Race
2. Color
3. National Origin

∞ In programs and activities receiving Federal financial assistance

Who Must Comply?



Recipients of HUD Federal Financial Assistance, such as:

- ☞ Housing Authorities
- ☞ HUD Assisted Housing Providers
- ☞ Activities funded with Community Development Block Grants (CDBG)

Title VI and LEP



Failure to ensure LEP persons can effectively participate in or benefit from federally funded activities and programs may result in National Origin discrimination under Title VI.

Executive Order 13166

August 11, 2000



- ∞ Federal *agencies and their recipients* must provide LEP Persons meaningful access to their services.
- ∞ EO 13166 was signed into law by President Clinton in 2000 and has been reaffirmed by each Administration since

HUD's Title VI LEP Guidance



☞ The Four Factor Analysis

1. Number or proportion of LEP individuals served or encountered in the eligible service area
2. Frequency with which LEP persons come into contact with the program
3. The nature and importance of the program, activity, or service provided by the program; and
4. The resources available to the grantee

Number or proportion of LEP population



- ☞ Generally, the greater the number or proportion of LEP persons from a certain language group within the eligible service area, the more likely language services are needed.
- ☞ What is the “Eligible Service Area”?
 - ☞ The area from which the program would expect to draw its applicants and beneficiaries

Number or proportion of LEP population- cont'd



- ❧ Consider geographic and programmatic terms. Even if overall number of LEP persons is small, the number of contacts the recipient has with LEP persons from the language group may be high!
- ❧ Only consider LEP individuals, and not all persons from non-English speaking national origins

Tools to determine Number or proportion of LEP persons served



- ❧ American Factfinder
(<http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>)
 - ❧ Can search by ethnicity or country of origin within given geographic area (city, county, or state level)
 - ❧ Data can be broken down into how well English is spoken

- ❧ Migration Policy Institute data
(<http://www.migrationpolicy.org/programs/data-hub>)
 - ❧ Data shows estimates of number of LEP individuals within a county
 - ❧ Data is taken from American Community Surveys and is organized by state
 - ❧ Shows absolute number of LEP persons and percentage of LEP persons

Frequency with which LEP persons come into contact with the program



- ☞ The more frequent the contact with a particular language group, the more likely that enhanced languages services in the language are needed

The nature and importance of the program, activity, or service provided by the program



- ❧ The more important, the more likely language services are required.
- ❧ Ask: is it compulsory for continued participation? Could denial or delay of access to information have a serious implication? Is the specific activity the basic activity for which the recipient was funded?

The resources available to the grantee



- ☞ Determine your level of resources AND the costs which would be incurred in providing language services
- ☞ All of these factors are examined and compared against what kinds of services are being provided or offered for LEP persons.

Determining if there is Meaningful Access



What is Meaningful Access?

- Ability to access programs and participate in services, activities, and other benefits

Where should your analysis start?

- Good starting point- Safe Harbors

Size of Language Group	Recommended Provision of Written Language Assistance
1,000 or more in the eligible population in the market area or among current beneficiaries	Translated vital documents
More than 5% of the eligible population or beneficiaries and more than 50 in number	Translated vital documents
More than 5% of the eligible population or beneficiaries and 50 or less in number	Translated written notice of right to receive free oral interpretation of documents
5% or less of the eligible population or beneficiaries and less than 1,000 in number	No written translation is required

Minimum Essential Elements of LEP Services



- ❧ Recipients, no matter how small, must begin by providing essential elements of LEP services including:
 - ❧ Assess languages used among the eligible population in the recipient's service area
 - ❧ Make "I Speak" cards readily available in the languages that have a significant population
 - ❧ Establish access to a translation line such as LanguageLine
 - ❧ Make its website accessible to LEP persons

LEP Take Away



1. Recipients of federal funding need to be making efforts to provide access to people with limited English skills
2. The analysis of what services a recipient needs to provide is a fact specific balancing test
3. If someone is having difficulty accessing federally funded programs because of a language barrier, they can file a complaint and HUD may investigate

LEP Resources:



HUD LEP Page:

http://portal.hud.gov/hudportal/HUD/program_offices/fair_housing_equal_opp/promotingfh/lep

Inter-Agency LEP Page:

www.lep.gov

 Questions?