



## **LEGAL SERVICES CORPORATION**

### **Guidance to LSC Programs for Serving Client Eligible Individuals with Limited English Proficiency**

**December 6, 2004**

Among the many vast changes that affect how and what services LSC programs provide to clients, none is more significant than the high number of immigrants that have

There are various ways to measure whether a multilingual person is limited English proficient. The Census Bureau asks individuals to self-identify their ability to speak English using a three-part question:

- Does this person speak a language other than English at home?
- What is this language?
- How well does this person speak English --- (1) very well, (2) well, (3) not well, or (4) not at all?

According to the 2000 Census, over 11 million households are “linguistically-isolated,” meaning that every single member of the household over age 14 speaks a non-English language and speaks English less than very well. The Census also found that almost 11 million people, or 4.2 percent of the population, speak English “not well” or “not at all.” Over 21 million people (8.1 percent of the population) speak English less than “very well.”

The National Health Law Program views the 21 million people who speak English less than “very well” as LEP persons in the health care context. This is because medical terminology is difficult to understand, so the level of English comprehension needs to be high.<sup>2</sup>

This view of limited English proficiency finds support from the United States Department of Health and Human Services Office for Civil Rights (OCR), which defines LEP persons as “individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.” The same definition is used in the U.S. Department of Justice (DOJ) LEP Guidance.<sup>3</sup>

A program may determine that an eligible individual who has limited English proficiency is one who elects to speak and/or have documents translated into a primary language that is not English. Programs should use the language preferred by an eligible individual for communicating with the program, after the eligible individual has been told that the program provides free interpreters. Eligible individuals may wish to communicate orally in one language and have documents translated into another. For example, an eligible individual may want to speak Spanish with her advocate. She may prefer that the program correspond with her in English because, in this hypothetical, she is illiterate in both languages, but has bilingual family members who have been educated in the U.S., and read English but not Spanish.

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<sup>2</sup> National Health Law Program, *Ensuring Linguistic Access in Health Care Settings: Legal Rights and Responsibilities*, 1.3-1.4 (2003).

<sup>3</sup> 68 Fed. Reg. 47311, 47313 (Aug. 8, 2003); *see also* 67 Fed. Reg. 41455, 41459 (June 18, 2002).



- The number or proportion of LEP persons eligible to be served or likely to be encountered by the program;
- The frequency with which LEP individuals come in contact with the program;
- The nature and importance of the program's services to people's lives; and
- The resources available to the program and the cost of obtaining them.

Determining the approximate size of this population may not require surveys or similar activities. The US Census describes LEP communities by county in its 2000 Reports under the heading "linguistically-isolated households."<sup>5</sup> Information on persons who speak a language other than English "less than very well" is also found in this section. Programs may want to obtain information from the US Census office in their region to obtain smaller breakdowns than are found on the Census website ([www.census.gov](http://www.census.gov)). Additional and perhaps more detailed data may more easily be available from state and local government entities, including planning agencies, and state and local departments of health, education and social services. Local universities and hospitals are another potential resource, as are immigration and refugee advocacy groups and public schools in the program's service area. It is also possible that some members of the state's justice community ha

program determine if there are communities that it has overlooked or ones that have recently come to the service area.

## **2. Critical Legal Needs**

All legal representation offered by LSC programs is important to those they serve. Civil legal services among other critically important activities protect vulnerable people from violence, homelessness, illegal discrimination and denial of critical benefits.

Information on the civil legal needs of the LEP groups in the program's service area may reveal a variance between the program's current priorities and the critical legal services necessary to adequately serve the service area's eligible individuals with limited English proficiency. When that is the case, p.003 52.1778 695.19 6hat is the casel6w 12 0 0 12 9o.ad

#### **4. Assessing Potential Impediments**

In addition, programs will want to consider whether any current policies or practices of the program create unintended language barriers that interfere with access to its services. The five questions below are useful and applicable to all levels of interaction with clients – telephone and other intake services, referral, advice and representation, and advocacy and outreach, including written and electronic material.

- Does the program have bilingual advocates on staff able to deliver services in the eligible individual's language, or are language interpreters on staff, and/or are there arrangements for trained interpreters and translators to be available for those other languages that are likely to be needed?
- What current program policies, resources and practices exist for identifying an eligible individual's primary language and providing language services for that individual?
- Is staff aware of these policies and practices, and are they actually followed?
- Are the LEP clients aware of the language assistance services available to them, i.e., does the program post notices about the availability of free interpreters and translated written materials?
- Does the program evaluate the effectiveness of its LEP policy, including its interpreter and translation services?

#### **B. Creation of program policy that reflects these needs and resources.**

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need of services. Therefore, the policy should include a structure for effective staff training on how to serve eligible LEP individuals. An important element of the policy is how the program will implement its policy and how its staff will carry out the program policy. The policy should also address how the policy and resources will respond to reflect changes in the client community and eligible individual language and legal needs. LSC encourages programs to send their LEP program policy, once developed, to LSC's Office of Program Performance. LSC has posted existing LSC program LEP policies on its LRI website at [www.lri.lsc.gov](http://www.lri.lsc.gov).

In addition to articulating general program policy of providing language appropriate services for LEP individuals, a written LEP policy should include the following elements:

**1. Assessment of language needs** – Intake by legal services providers is a critical interaction for eligible LEP individuals. Programs should develop, as part of their LEP policy, a mechanism for determining when applicants for services have limited proficiency in English, the preferred language of eligible individuals and the individual's need for an interpreter and note those needs in the records maintained by the program. This mechanism, when used by intake staff and initial public contact staff, will provide the program with ongoing information as to the language needs in its service area. In addition, subsequent interactions with this particular client can be undertaken with a bilingual staff person or an interpreter, and in conjunction with other resources that accommodate the client's culture and language.

To help clients identify their language abilities, programs may want to use the "I speak cards," that are available at [www.lep.gov](http://www.lep.gov).<sup>6</sup> Posting multi-lingual signs in many languages (even ones that a program does not think are spoken in the service area) that indicate the availability of free interpreters will significantly help eligible individuals, especially those in the groups the program has determined have particular language needs.<sup>7</sup> Since eligible in

Programs will want to have bilingual staff



individuals, as well as all other parameters of the program's LEP policy. It is essential that staff be sensitive to the difficulties faced by eligible LEP individuals accessing service and the staff is familiar with the program'

back up for staff.<sup>11</sup> Telephone-based interpreter services are essential in any program with full-service intake capab

use of bilingual staff and competent professional or volunteer interpreters for interpreting, instead of an LEP individual's family and friends.<sup>14</sup>

Of even greater concern is the use of minor children as interpreters. In addition to the problems set out above, relying on children may force them to become privy to information that they may be too young or too immature to comprehend or absorb appropriately. Reliance on minor children as interpreters should be used only in extreme emergencies and if there is no other resource, and then only until the services of an unrelated bilingual interpreter can be obtained.<sup>15</sup>

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samples of the primary translator's work product should be reviewed by another translator. In all instances, the translator should be cognizant of the seriousness and importance of the role.

**6. Outreach** – Programs should develop stra

