

NATIONAL COUNCIL ON DISABILITY
Language Assistance Plan for Implementation of
Executive Order 13166
Improving Access to Services for Persons with Limited English Proficiency
Revised January 2, 2003

Background

Executive Order 13166 (EO 13166), “Improving Access to Services for Persons with Limited English Proficiency,” was created to “...improve access to federally conducted and federally assisted programs and activities for people who, as a result of national origin, are limited in their English proficiency (LEP)...” President Bush affirmed his commitment to EO 13166 through a memorandum issued on October 25, 2001, from the Department of Justice (DOJ).

EO 13166 contains two major initiatives. The first is designed to better enforce and implement an existing obligation: Title VI of the Civil Rights Act of 1964 prohibits recipients of federal financial assistance from discriminating based on national origin by, among other things, failing to provide meaningful access to individuals who are LEP. The Executive Order requires federal agencies that provide federal financial assistance to develop guidance to clarify those obligations for recipients of such assistance.

Second, the Executive Order sets forth a new obligation: Because the Federal Government adheres to the principles of nondiscrimination and inclusion embodied in Title VI, the Executive Order requires all federal agencies to meet the same standards as federal financial assistance recipients in providing meaningful access for LEP individuals to federally conducted programs. Each federal agency must thus develop a plan for providing that access.

Anything a federal agency does, including all contact with the public, falls within the scope of federally conducted and assisted programs or activities. The definition of federally conducted and assisted programs is the same under EO 13166 as it is under Section 504 of the Rehabilitation Act of 1973.

EO 13166 requires that all federal agencies take reasonable steps to provide meaningful access to their own federally conducted activities. Each agency must develop and begin to implement a plan of action by December 11, 2000. The National Council on Disability’s (NCD) LEP plan was completed and posted to its Web site (<http://www.ncd.gov/newsroom/publications/limitedenglish.html>) on December 12, 2000.

The Coordination and Review Section of the Civil Rights Division at DOJ has taken the lead in coordinating and implementing this Executive Order.

National Council on Disability

The National Council on Disability (NCD) is a small independent federal agency with a staff of 12. NCD's mandate is to make recommendations to the President and Congress on disability policy. Therefore, its primary audiences are the President and Congress. NCD's budget is approximately \$3 million annually, with a preponderance of it going to administrative costs and overhead. As such, NCD will apply the reasonable accommodation standard to LEP issues as it does for disability issues. In order to avoid the risk of limiting or curtailing other important policy work that will benefit all people with disabilities and the larger community, agencies with smaller budgets will need additional funding to carry out this mandate. NCD recommends that the Administration ensure that small agencies receive adequate funding to carry out this mandate.

The United States is a diversified nation. According to the Census, there are more than 50 million people with disabilities in the United States. However, this does not include those living in institutions. The number of Hispanic Americans with disabilities (4,417,000) is greater than the population of South Carolina (3,885,736). The number of Native and Asian Pacific Americans with disabilities (1,446,000) is greater than the population of Maine (1,253,040).

NCD's policy of outreach to people with disabilities who are culturally diverse and LEP is long-standing. In 1995, NCD translated its brochure *National Council on Disability At a Glance* into Spanish. In 1998, NCD conducted a public hearing in San Francisco. To encourage the participation of people with LEP and specifically to ensure input from the Asian/Pacific Islander and Hispanic communities, the hearing was conducted simultaneously in Spanish, English, and Cantonese. Then, NCD translated its 1999 report *Lift Every Voice: Modernizing Disability Policies and Programs to Serve a Diverse Nation* into Spanish and Chinese.

Lift Every Voice was based on input from stakeholders at a meeting in San Francisco. In *Lift Every Voice*, NCD highlighted one recommendation to the President and Congress in particular that has potential to enhance the impact of current policies and programs for people with disabilities who are culturally diverse and LEP. It reads:

NCD has learned from grassroots witnesses that the best way to empower people from diverse cultures with disabilities and their families to take full advantage of federal laws, programs, and services is to provide them with easy-to-understand, culturally appropriate information about what their rights are under various federal laws (e.g., ADA, the Rehabilitation Act, IDEA, the Fair Housing Act) and how best to exercise those rights when a violation occurs.

To address this issue directly, NCD recommends that an interagency team composed of representatives from the departments of Education, Labor, Health and Human Services, Justice, and Housing and Urban Development, along with the Equal Employment Opportunity Commission, Small Business Administration, and Federal Communications Commission, develop and

implement a large-scale outreach and training program. The initiative will: (1) be targeted to people with disabilities from diverse cultural backgrounds and their families; (2) involve people with disabilities from diverse cultures in all phases of planning and implementation; (3) provide information directly to the target communities through a series of trainings across the country; (4) include among those who provide training leaders recognized within a cultural group; and (5) use training strategies that are appropriate for specific communities and groups across the country. These trainings should be repeated periodically so that new people are trained each year and materials are routinely updated.

This interagency team should work with disability communities, diverse cultural communities, and a broad array of organizations representing different types of disabilities, ethnic, racial, religious, and other interests. The interagency team should invite these representatives to participate in the development of a workplan, timetables, and appropriate stakeholder consultation as it begins its work. In addition, NCD recommends that the interagency team recruit, train, and contract with a core group comprised of people with disabilities from diverse cultural backgrounds and their family members to help (1) develop the written materials and programs that will be used for the trainings; (2) translate materials into many languages with sensitivity to cultural appropriateness of terminology, and (3) conduct the trainings once the appropriate materials are translated, field tested on sample groups, and produced for dissemination in communities. The federal partners should make efforts to include and accommodate often-overlooked groups among the people to be trained and the core group of trainers. These include but are not limited to young adults with disabilities, people in rural or isolated locations, including tribal communities, people with mental disabilities, and people with limited English proficiency. Finally, NCD recommends that Congress should provide support (funding) to the federal sponsors of the trainings in order to eliminate any potential financial barriers to participation so that the population trained will truly represent the population to be served.

In 2000, NCD translated its 500-page report *Back to School on Civil Rights* into Spanish, and provided language translators for selected regional briefings. NCD also began translating and disseminating selected news releases and media advisories into Spanish and Chinese.

As a continuation of its cultural diversity and LEP outreach in 2001, NCD added language translation software to its award-winning Web page (<http://www.ncd.gov>). This language translation function, known as Babel Fish, is a free, automatic translation service that removes language barriers across the World Wide Web. Babel Fish translates these language pairs:

English to French; English to German; English to Italian; English to Portuguese; English to Spanish; French to English; German to English; Italian to English; Portuguese to English; Russian to English; Spanish to English; French to German; and German to French. The addition of Babel Fish to the NCD Web site was an interim step in anticipation of the implementation of EO 13166.

NCD translated into Spanish and Vietnamese its *Reconstructing Fair Housing* report, which looks at the Fair Housing Amendments Act of 1988 (FHAA) and Section 504 as they relate to one key federal agency, namely, the U.S. Department of Housing and Urban Development.

NCD added to its Web site a Spanish translation of its report *The Accessible Future*, which is an appeal to the Federal Government, private industry, and consumers to join forces to increase access of electronic and information technology to people with disabilities.

NCD added electronic translations of its brochure *National Council on Disability At a Glance* in Korean, Tagalog, Vietnamese, and Chinese.

In 2002, NCD also translated into Spanish its *National Disability Policy: A Progress Report, December 2000-December 2001*, which reviews federal policy activities by issue areas, noting progress where it has occurred and making further recommendations where necessary to the executive and legislative branches of the Federal Government.

Implementation Plan for NCD Web Site

NCD recommends that the U.S. Government Printing Office, the agency that hosts the NCD Web site and approximately 30 other federal sites, provide advice on how translation software for DOJ recommended languages of Spanish, Chinese, Vietnamese, Tagalog, and Korean can be added to all federal Web sites under GPO's purview. NCD recommends that GPO purchase or create the necessary software and apply it to each agency, thus creating a standard for more than 30 federal Web sites that include:

Bureau of Land Management
Commission on the Roles and Capabilities of the United States Intelligence Community
Congress of the United States
Davis-Bacon Wage Determinations
Department of Interior Office of Inspector General
Executive Office of the President
 Council of Economic Advisers
 Office of Management and Budget
Export Administration Regulations
Federal Labor Relations Authority
Federal Mine Safety and Health Review Commission
Food and Drug Administration
General Accounting Office

Merit Systems Protection Board
Millennial Housing Commission
National Archives and Records Administration's Office of the Federal Register
National Commission on Terrorism
National Council on Disability
National Labor Relations Board
National Mediation Board
Occupational Safety and Health Review Commission
Office of Compliance
Office of Government Ethics
Office of Independent Counsel (Donald C. Smaltz)
Office of Technology Assessment
U.S. Capitol Police
U.S.-China Security Review Commission
U.S. Commission on National Security
U.S. Equal Employment Opportunity Commission
U.S. Nuclear Waste Technical Review Board
U.S. Trade Deficit Review Commission
United States Commission on Civil Rights
United States Supreme Court
 The Supreme Court Fellows Program

Also, with regard to the NCD Web site, NCD will assess (1) the number or proportion of LEP persons in the eligible service population; (2) the frequency with which LEP individuals come into contact with the program; (3) the importance of the service provided by the program; and (4) the resources available to the recipient.

Using WebTrends, a Web site analytical tool, NCD is able to monitor the number of downloads and visits to its translated documents.

Implementation Plan for Publications

As part of its standard LEP outreach practice, NCD will continue to translate its reports, vital documents, and summaries and other documents that will most likely impact LEP populations.

To that end, NCD will assess (1) the number or proportion of LEP persons in the eligible service population; (2) the frequency with which LEP individuals come into contact with the program; (3) the importance of the service provided by the program; and (4) the resources available to the recipient.

Implementation Plan for Public Meetings

Pursuant to Section 522b(e)(1) of the Government in the Sunshine Act, (Pub. L. 94-409), and Section 10(a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), NCD publishes in the *Federal Register*, notice of all meetings and advisory committee meetings. As part of NCD's standard practice in those notices, NCD asks those needing reasonable accommodations to notify and request those services prior to the meetings. To that end, NCD will assess (1) the number or proportion of LEP persons in the eligible service population; (2) the frequency with which LEP individuals come into contact with the program; (3) the importance of the service provided by the program; and (4) the resources available to the recipient.

Beginning with its quarterly meeting in February 2001, NCD made it standard practice to also ask those people with disabilities who are LEP to request reasonable language translation accommodations in advance of each meeting.

Implementation Plan for the NCD Office

NCD will provide language translation and assistance to any person with a disability who is LEP and in need of assistance. This will include telephone calls and office visits. NCD also uses language identification flash cards to help in this effort. NCD will notify staff on how to obtain needed services.

Conclusion

NCD has made every effort to fully comply with EO 13166. NCD will apply the four-factor analysis and guidance developed by DOJ in considering what constitutes reasonable steps to ensure meaningful access. NCD is taking concrete steps to address the inadequacies and unique needs of people who are culturally diverse and LEP, and to work for their meaningful inclusion into society. NCD will monitor the effectiveness of its LEP outreach and modify its plan when necessary. NCD will procure its LEP services through contracts with the U.S. General Services Administration.