

Appendix to § 38.9—Guidance to Recipients

Recipient Language Assistance Plan (LEP Plan): Promising Practices

The guidelines in this appendix are consistent with and, in large part, derived from existing federal guidance to federal financial assistance recipients to take reasonable steps to ensure meaningful access by limited English proficient (LEP) individuals.

Recipients that develop, implement, and periodically revise a written language assistance plan are more likely to fulfill their obligation of taking reasonable steps to ensure access to programs and activities by LEP individuals. The guidelines set forth below provide a clear framework for developing a written plan that will ensure meaningful access to LEP individuals.

Developing and implementing a written plan has many benefits, including providing the recipient with a roadmap for establishing and documenting compliance with nondiscrimination obligations and ensuring that LEP beneficiaries receive the necessary assistance to participate in the recipient's programs and activities.

The elements of a successful LEP plan are not fixed. Written LEP plans must be tailored to the recipient's specific programs and activities. And, over time, plans will need to be revised to reflect new recommendations and government guidance; changes in the recipient's operations, as well as the recipient's experiences and lessons learned; changing demographics; and stakeholder and beneficiary feedback. Nonetheless, a recipient that develops an LEP plan incorporating the elements identified below will benefit greatly in accomplishing its mission and providing an equal opportunity for LEP individuals to participate in its programs and activities.

A written LEP plan should identify and describe:

1. The process the recipient will use to determine the language needs of individuals who may or may seek to participate in the recipient's program and activities (self- or needs-assessment)
2. The results of the assessment, *e.g.*, identifying the LEP populations to be served by the recipient
3. Timelines for implementing the written LEP plan
4. All language services to be provided to LEP individuals
5. The manner in which LEP individuals will be advised of available services
6. Steps individuals should take to request language assistance
7. The manner in which staff will provide language assistance services
8. What steps must be taken to implement the LEP plan, *e.g.*, creating or modifying policy documents, employee manuals, employee training material, posters, Web sites, outreach material, contracts, and electronic and information technologies, applications, or adaptations
9. The manner in which staff will be trained
10. Steps the recipient will take to ensure quality control, including monitoring implementation, establishing a complaint process, timely addressing complaints, and obtaining feedback from stakeholders and employees
11. The manner in which the recipient will document the provision of language assistance services
12. The schedule for revising the LEP plan
13. The individual(s) assigned to oversee implementation of the plan (*e.g.*, LEP Coordinator or Program Manager)
14. Allocation of resources to implement the plan

Illustrative Applications in Recipient Programs and Activities

Unemployment Insurance Program Example

1. Unemployment insurance programs are recipients covered under this rule, and States must take reasonable steps to provide meaningful access to LEP individuals served or encountered in their unemployment insurance programs and activities. For example, given the nature and importance of unemployment insurance, if an LEP individual who speaks Urdu seeks information about unemployment insurance from a State's telephone call center that assists unemployment insurance enrollees and applicants, the State may consider the proportion of Urdu-speaking LEP individuals served or encountered by the State's unemployment insurance program; the frequency with which Urdu-speaking LEP individuals come in contact with the State's unemployment insurance program; and the resources available to the State and costs in determining how it will provide this LEP individual with language assistance. Urdu is a language that is rarely, if ever, encountered by this State's UI program. Because low-cost commercial language services, such as telephonic oral interpretation services, are widely available, the State should, at a minimum, provide the Urdu-speaking LEP individual telephonic interpretation services to ensure meaningful access to unemployment insurance because, even if Urdu is a non-frequently encountered, non-English language, low-cost commercial language services, such as telephonic oral interpretation services, are widely available.

Population Significance as It Pertains to Vital Information

2. Recipients have some flexibility as to the means to provide language assistance services to LEP individuals, as long as they take reasonable steps to provide meaningful access to their program or activity. For instance, if a recipient provides career services to an LEP individual who speaks Tagalog and the individual requests a translated brochure on an upcoming job fair, the recipient should consider the importance of the information in the brochure, and may consider: The proportion of Tagalog-speaking LEP individuals served or encountered; the frequency with which Tagalog-speaking LEP individuals come in contact with the recipient; and the resources available to the recipient. In this instance, the recipient would be required to provide a written translation of the brochure for the LEP individual if Tagalog were a language spoken by a significant number or proportion of the LEP persons in the eligible service population and a language frequently encountered in the career services program. But if Tagalog is not spoken by a significant number or proportion of the population eligible to be served, and was not frequently encountered by the career services program, it would be reasonable for the recipient to provide an oral summary of the brochure's contents in Tagalog.

Training Provider Example Incorporating English Language Learning

3. Providing English language learning opportunities may be one step that a recipient takes in order to take reasonable steps to provide an LEP individual meaningful access to its programs or activities. For example, John, a Korean-speaking LEP individual, learns through the one-stop center about available welding positions at ABC Welding, Co. He also learns through the one-stop center about upcoming welder training courses offered at XYZ Technical Institute, an eligible training provider. John decides to enroll in one of the XYZ welding courses. XYZ, which conducts its training courses in English, must take reasonable steps to provide John meaningful access to the welder training course.

Recipients may work together to provide meaningful access, but remain independently obligated to take reasonable steps to provide meaningful access to programs and activities.

In this regard, XYZ is not required to administer an English language learning class itself. Instead, XYZ may coordinate with the one-stop center to ensure that John receives appropriate English language learning either directly from the one-stop or from another organization that provides such English language training. The English language class would not be offered to John instead of the training program, but John could attend the English language class at the same time as or prior to the training program. Whether John takes the English class before or concurrently with the welding course will depend on many factors including an objective, individualized analysis of John's English proficiency relative to the welding course. Regardless of how the English language learning is delivered, it must be provided at no cost to John.

In evaluating whether reasonable steps include oral interpretation, translation, English language learning, another language service, or some combination of these services, XYZ may work with the one-stop center to provide meaningful access to John.