

**Limited English Proficiency Access
In Buffalo and Erie County
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What do we mean when we talk about Limited English Proficiency?

An individual with a limited ability to read, write, speak, or understand English may be termed limited English proficient, or LEP. In 2001, the U.S. Census Bureau reported that 33% of Spanish speakers and 22.4% of Asian speakers between the ages of 18 and 64 reported that they spoke English either “not well” or “not at all.” The percentages are based on the 2000 census, which reported 26 million individuals speaking Spanish as their primary language, and 7 million speaking an Asian or a Pacific Island language.¹

LEP individuals often cannot access important federally funded benefits or services because they do not have a sufficient understanding of what is required or how to qualify. The language barrier also means they sometimes cannot understand or exercise important rights, understand information provided by federally funded programs and activities, or comply with applicable responsibilities.²

What did the federal government do in an attempt to help LEP individuals?

Failing to make sure that LEP individuals can participate in federally funded programs and activities may violate the prohibition against national origin discrimination in Title VI of the Civil Rights Act.³ In an attempt to clarify the requirements for LEP persons under Title VI, on August 11, 2000, President Clinton signed Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency.”⁴

Executive Order 13166 requires federal agencies to take a close look at the services they provide, note the need for services to LEP persons, and develop and implement a system to provide those services in a way that LEP individuals can use them.⁵ The order mandates agencies that receive federal financial assistance to provide meaningful access to their LEP applicants and beneficiaries, but states that compliance with the order should not create an unreasonable financial burden on the agency.⁶

In an effort to assist federal agencies in carrying out their responsibilities, the Department of Justice issued a Policy Guidance Document, titled “Enforcement of Title VI of the Civil Rights Act of 1964 – National Origin Discrimination Against Persons With Limited English Proficiency,” better known as the “LEP Guidance.” The manual helps agencies understand what steps they must take to comply with Title VI.⁷

What should an agency consider when deciding how to comply with Title VI and ensure LEP individuals can use their services?

Agencies and government actors have to make sure LEP individuals can understand and obtain their services. However, with over 3,000 languages in the world it would be unreasonable to expect agencies to have documents and translators on hand for every single language. When deciding how to prepare for interactions with LEP individuals, agencies must consider and balance the following four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
2. The frequency with which LEP individuals come in contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to people’s lives; and
4. The resources available to the recipient or agency, and the costs.⁸

What are some common examples of things that an agency can do to make sure LEP persons have access to important services?

- Produce essential written materials in both English and other languages regularly encountered in advance.
- Advertise and offer free translation of any written document upon request; particularly in languages that are encountered less frequently.
- Hire bilingual staff members.
- Advertise free interpreters for situations where LEP individuals might have trouble understanding the conversation.⁹



What are some things Erie County does to assist LEP individuals?

- **The Erie County District Attorney's** website has links to help victims and witnesses understand their rights, court procedures, and what to do if they witness or are victims of a crime. The website has links for both Spanish speakers and English speakers; however the links are not active and do not actually bring citizens to a new page at all.¹⁰
- **The District Attorney's Victim/Witness Assistance Program** has two Spanish speaking case aides, and the website lists the main aide's direct number.¹¹ The District Attorney's office stated that if an LEP individual needs help and speaks a language other than Spanish or English, the office will contact the International Institute for an interpreter. The D.A.'s office pays for the interpreter at no cost to the victim or witness.¹²
- **The Erie County Department of Social Services' Employment Division** seeks to help individuals find a job. The department has a contract with International Institute of Buffalo, who will provide an interpreter or translator to any LEP person who chooses to seek help from the DSS Employment Center at no charge to the LEP individual. The Employment Center will contact International Institute and request an interpreter for meetings with LEP persons so long as they identify themselves as such beforehand. The department stated that they rely on local nonprofits to help LEP persons identify themselves as needing an interpreter and in what language in advance for the most efficient service possible. If the LEP person does not notify the Employment Division in advance and clearly cannot speak English sufficiently when interviewing, they will reschedule the appointment and make sure they get an interpreter for the next meeting.¹³
- **The Erie County Clerk's** office stated that about half their staff was bilingual, speaking both English and Spanish. In regard to other LEP persons who have a primary language other than Spanish, they would address that problem as it arose with the county attorney, but they had not yet faced that problem.¹⁴
- **The Erie County Medical Center** helps LEP persons by strategically placing interpreter phones throughout the hospital. According to the ECMC Patient Advocate office, the phones have dual headsets, so the LEP individual can use one phone, indicate their language, speak, and the system will automatically translate to the hospital staff member using the other



headset. They also provide copies of the patient's rights document in all of the common languages, including Spanish, French, and German. The patient advocate office also stated that the hospital has multiple signs throughout the hospital advertising free translation and interpretation in English, Spanish, and several other common languages.¹⁵

What has the City of Buffalo done to assist LEP individuals?

- **The Buffalo Municipal Housing Authority** boasts excellent meaningful access to LEP individuals. The agency has a number of jobs that applicants cannot apply for if they do not also speak Spanish. Upon filling one of these positions, applicants must take a test

demonstrating their proficiency in Spanish before being offered the job. Additionally, any flyers or posters BMHA distributes are always printed in Spanish as well as English, and the Resident Services department is headed by a bilingual individual. The BMHA representative was not aware of any documents distributed in advance in any other languages.¹⁶

➤ **The Buffalo Public Schools** are required to inform LEP parents of what is happening with regard to their children in a language they can fully comprehend. Patrick Ferris, Title III Coordinator for the Office of Multilingual Education within the Buffalo Public Schools, detailed how they handle situations with LEP individuals. According to Mr. Ferris, many LEP parents in Buffalo speak Spanish as their primary language, and most schools in the area have more than one teacher or school administrator that is bilingual and can assist with interpreting. Typically when parents who do not speak English well and come in for a meeting they bring a friend or relative to interpret for them. In the case of parents who are refugees for more than six months, generally the resettlement agency they are already working with will provide them with an interpreter. The schools do not allow children to translate for parents except in the case of very informal circumstances. If the school anticipates a problem with the language barrier, they bring someone on staff in for interpretation.

➤ Documents that are essential to parent understanding, like registration forms, are produced in both English and Spanish. When a parent speaks a less common language, the specific school contacts the Central Processing Center, who puts out a request to all other schools and departments to find someone who happens to speak that language and can translate the document. Furthermore, within the Multilingual Education Department many of the staff speak lesser known languages, including Burmese and some tribal dialects and can be contacted to help translate or interpret. Finally, the school system receives a Refugee Impact Grant from Journey's End, which places up to five people who speak different languages in the schools every day to help both students and parents have the best experience possible.¹⁷



How successfully do Buffalo and Erie County provide access to LEP individuals?

It does not appear that the City and County have LEP Plans, as recommended by Executive Order 13166. Other cities and counties around the nation have done far more. For example, the City of Minneapolis and Hennepin County, Minnesota, both offer a clear and detailed LEP Plan offering guidance to government staff and LEP individuals on how to handle the often complex issues that arise.¹⁸

According to Catholic Charities, Buffalo does relatively well providing meaningful access to LEP individuals- especially if they are native Spanish speakers. Most government entities seemed well equipped with Spanish speaking employees and keep on hand important documents written in Spanish as well as English. On the other hand, immigrants and refugees who speak a less common language, such as Burmese or Mandarin, have a more difficult time interacting with local government and their agencies. Catholic Charities noted that local hospitals, who are required to provide an interpreter, do an excellent job serving LEP individuals without any further assistance from Catholic Charities. On the other hand, Catholic Charities mentioned that they needed to provide an interpreter to the majority of LEP persons they assist when they need to deal with the Department of Social Services.¹⁹

In conducting research for this fact sheet, the author found considerable difficulty getting government representatives to discuss the topic. Many people seemed nervous and dismissive about the issue, while a surprising number of others did not seem to recognize this topic at all, or the legal requirements surrounding LEP access. Upon further explanation of LEP and the prohibition against National Origin, contacts ultimately had some information to give, but generally staff members were unsure where to transfer the call or who would best be able to provide insight on this issue. Many phone messages remain unreturned. These experiences suggest the need to formulate LEP plans and train staff in implementing them.

What local nonprofits are helping LEP persons?

- **Catholic Charities** provides services to LEP individuals by providing them with interpreters or translators when necessary and offering a number of ESL classes.²⁰
- **International Institute of Buffalo** boasts 250 translators and interpreters, with services for over 75 languages. Services are provided to LEP individuals for hospital visits, court attendance, social service interactions, and others; they also serve businesses who want to better communicate with their LEP clients. English as a Second Language classes are offered free of charge Monday through Thursday most of the year at five different levels of proficiency. International Institute also offers classes to help higher level English speakers prepare for the Test of English as a Foreign Language (TOEFL) if they are interested in attending college in the United States.²¹
- **Journey's End Refugee Services** provides interpreters to LEP individuals (mainly refugees) in an effort to help them succeed in their businesses by assisting them with interactions between clients and other businesses. Interpreters are available for oral interpreting during meetings, presentations, conferences, and other professional settings. They will also translate written documents if necessary. Journey's End boasts services in more than 30 languages, including Vietnamese, Farsi, Burmese and Arabic, to name a few.²²
- **Hispanics United of Buffalo** is targeted towards the empowerment of the Hispanic population in Buffalo. Services include addressing issues of: homelessness, domestic violence, joblessness, language barriers and suicide prevention.²³

NOTES

¹ <http://www.dotcr.ost.dot.gov/asp/lep.asp>

² <http://www.dotcr.ost.dot.gov/asp/lep.asp>

³ <http://www.dotcr.ost.dot.gov/asp/lep.asp>

⁴ <http://www.lep.gov/13166/eo13166.html>

⁵ <http://www.lep.gov/13166/eo13166.html>

⁶ <http://www.lep.gov/13166/eo13166.html>

⁷ <http://www.lep.gov/13166/eo13166.html>

⁸ <http://www.lep.gov/faqs/faqs.html>

⁹ <http://www.lep.gov/faqs/faqs.html>

¹⁰ <http://www.erie.gov/victimrights/faq.asp>

¹¹ <http://www.erie.gov/victimrights/>

¹² Phone interview with Jeffrey Ricketts, Erie County District Attorney's Office (April 22, 2009)

¹³ Phone interview with Frank DeCarlo, Director of Employment, Erie County Social Services (April 16, 2009)

¹⁴ Phone interview with Erie County Clerk's Office (April 20, 2009)

¹⁵ Phone interview with ECMC Patient Advocate Office (April 22, 2009)

¹⁶ Interview with Rita Ron, Buffalo Municipal Housing Authority (April 14, 2009)

¹⁷ Phone interview with Patrick Ferris, Coordinator for Title III, Multilingual Education Department of Buffalo Public Schools (April 22, 2009)

¹⁸ See

<http://www.co.hennepin.mn.us/portal/site/HCInternet/menuitem.3f94db53874f9b6f68ce1e10b1466498/?vgnextoid=1058e7f78c5fc010VgnVCM1000000f094689RCRD> and <http://www.ci.minneapolis.mn.us/police/about/mcu/PCRC-LEP-Presentation.pdf>.

¹⁹ Interview with Becky Mischler, Catholic Charities (April 14, 2009)

²⁰ http://www.ccwny.org/service_details.php?nID=74

²¹

http://www.iibuff.org/index.php?src=gendocs&ref=English%20as%20a%20Second%20Language&category=Langu age_Classes

²² <http://jerswny.org/services.htm#5>

²³ Buffalo Rising-http://www.buffalorising.com/story/hispanics_united_of_buffalo