

March 10, 2003

Mattie Condray
Legal Services Corporation
750 First Street, NE
Washington, DC 20002-4250

Dear Mattie:

Below please find my comments in response to the Legal Services Corporation's request for comments on Limited English Proficiency (LEP) guidance.

First, let me thank the Legal Services Corporation for taking this important issue on. As LSC knows, more and more of the client eligible population served by LSC's grantees are members of the LEP population. It is gratifying to know that this issue is part of LSC's agenda for the year.

I urge LSC not to issue regulations on how to serve the LEP population. Given the additional burden on grantees, as well as the burdens on the Corporation to properly monitor compliance, I am convinced that a regulation is not appropriate. As well, as I understand it, LSC recipients are not covered by Title VI per se because LSC funds are not necessarily "federal financial assistance." Thus issuing a regulation is not required by Title VI and could have some unintended consequences. On this issue, I join with the NLADA comments.

I do strongly support the current grant assurance requiring LSC grantees to provide services to LEP clients in a non-discriminatory manner, and as necessary, enforcement of the grant assurances prohibiting discrimination based on national origin.

I also hope that LSC will issue its own non-regulatory guidance for recipients, modeled after the DOJ guidance, but with examples that address specific responsibilities of legal services programs across the nation. This guidance must be consistent with the DOJ guidance, and indeed, should be modeled on the DOJ guidance. The factors that DOJ recipients must consider in undertaking their individualized assessment about what is a reasonable LEP plan for their program make sense. Programs must make realistic assessments, yet still maintain the flexibility to fashion a reasonable response.

I do believe that either LSC's guidance or grant assurances should require submission

of a written plan and a written LEP policy on an annual or every 24-month basis. For those grantees who are already doing a good job and are cognizant of how to serve the LEP population, the obligation to write it down is not unduly burdensome. It will help even the best grantees to articulate the program's plan and policy for serving LEP populations, and assist them in orienting new staff to the program's requirements. For those grantees who have given insufficient thought to serving their LEP populations, the requirement of a plan and policy will require that they do so (at least every year or two).

I suggest that LSC add a training component, developing easy-to-administer tests to assure competency of bilingual staff who provide interpretation and translation services for others. Supporting training for bilingual staff who serve as interpreters and translators would also be helpful. Assembling resources available for recipients would also be valuable.. For example, negotiating national discounts for telephone translation services such as Language Line, as the Corporation has done for computer assisted legal research, could help all grantees. Finally, collecting and sharing best practices of LSC grantees and other legal services providers could easily be done at the Legal Resource Initiative website. You may wish to consult with the National Association of Judiciary Interpreters and Trainers (www.najit.org) for assistance in this regard.

On the issue of enforcement and compliance, I suggest that some type of monitoring go along with the annual or semi-annual requirement of an LEP Plan and an LEP policy. Perhaps peer review teams could be employed on a limited basis to assess compliance with the grant assurances. LSC could establish consultant relationships with individuals with LEP expertise so that these consultants can be incorporated into competitive bidding visits and assist in the event that a complaint is received by the Corporation. Services to LEP clients should be one of the issues covered in state plans, and in competitive bids. LSC could also use the tools at its disposal such as the state planning process, the diversity initiative and the competitive bidding process and the Technology Initiative Grants to require grantees to address the issues of serving the LEP population.

I join with NLADA to urge LSC to take action on this topic. Even if you choose not to require a plan and LEP policy from every LSC grantee, you should not do nothing. To do nothing would be to turn your back on the significant numbers of LEP persons served by LSC grantees. I hope you will provide guidance, oversight, training and best practices to LSC recipients in how to serve our LEP population.

Again, I want to thank you for making services to LEP populations a top priority for the Corporation in 2003. If I can provide you with any additional information, please do not hesitate to contact me.

Sincerely yours,

Lillian M. Moy
Executive Director

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