



Northwest Justice Project

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Patrick H. McIntyre
Executive Director

March 6, 2003

Ms. Mattie C. Condray
Senior Assistant Legal Counsel
Office of Legal Affairs
Legal Services Corporation
750 First Street, NE
Washington, D.C. 20002-4250

Re: Comments Regarding Limited English Proficiency (LEP) Guidance

Dear Ms. Condray:

I am writing on behalf of the Northwest Justice Project (NJP), the Legal Services Corporation (LSC) grantee for the state of Washington in response to the request for comments published at 68 FR 1210 (Jan. 9, 2002). NJP serves a highly diverse client population significantly comprised of new immigrants with limited English proficiency. As such, NJP appreciates the opportunity to comment on LSC's initiative to insure that low income eligible LEP persons and communities are adequately and effectively served by recipients.

NJP has for many years utilized a range of strategies for meeting the needs of LEP clients, including utilization of bilingual staff whenever possible, trained and certified interpreters when necessary, the Language Line for telephone based communications with LEP persons through our CLEAR hotline system and otherwise, translation of all relevant documents, including LSC compliance documents such as the retainer agreement, declaration of citizenship, and Statement of Facts form, as well as all letters to clients and relevant pleadings. In addition to our Farm Worker Unit, which frequently serves monolingual Spanish speakers, NJP also has several special projects targeted to LEP populations in the Seattle area, including the Refugee and Immigrant Advocacy Project (RIAP), the Cross-Cultural Family Law Clinic, and the Domestic Violence Community Law Project. NJP's web-site (www.nwjustice.org) features several publications that are available in languages other than English. NJP staff are identified as national resources for LEP services and have participated as trainers in various conferences on LEP access to services both nationally and locally. Each of the access strategies utilized by NJP requires commitment, expertise, training, and funding to effectively implement.



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Comments on Specific Suggested Options

1. LSC Issuance of Regulations: NJP commends LSC for its effort to identify its most effective role in ensuring that LEP clients have effective access to LSC funded services. Because NJP is deeply committed to effectively serving LEP clients and has undertaken substantial steps to ensure that our services are accessible to LEP communities, we believe that the most appropriate option for LSC in this regard is to serve a supportive, technical assistance role for recipients struggling to meet LEP client needs. NJP strongly urges LSC not to impose new compliance requirements or documentation/reporting burdens on grantees, as we believe that recipients should view LSC's concern regarding effective LEP access strategies as being in the mutual interest of LSC, recipients, and clients, and not born of a burdensome regulatory requirement. There are also significant issues that make national uniform compliance with an LSC imposed regulatory approach to LEP services nearly impossible, including immense diversity of LEP communities in various regions of the country, variant availability of interpreter and language assistance resources throughout the country, and varying availability or lack of other resources, including funding, for language assistance services. At best, recipient programs may and should be encouraged to ensure that their services are available to all client communities, including non-English proficient populations in their service area, that the available language assistance resources within their service areas be identified and utilized where appropriate, and that relevant staff receive effective training on working with language minorities, including on the use of interpreters. Beyond taking these steps, resources around the country are so varied that consistency of service strategy is not readily achievable. Thus, NJP opposes the suggestion that LSC issue its own Title VI LEP compliance regulations.

2. LSC Issuance of Non-Regulatory Guidance: NJP is currently a recipient of federal funding from the Department of Justice for provision of legal assistance under the Violence Against Women Act and from the Administration on Aging for provision of legal assistance to Seniors and is a recipient of a federally funded Victims of Crime Act grant through the Washington state Department of Social Health Services. Each of these grants come with their own non-discrimination compliance requirements in addition to those LSC imposes through its grant assurances. Thus, additional guidance, while potentially of some assistance, would result in little added value for the provision of services to NJP's LEP clients, and could, as recognized by LSC trigger unintended compliance/investigation burdens. NJP further strongly supports a continuing interpretation that LSC funds are not "federal funds" as commonly understood for purposes of subjecting LSC grantees to the full array of regulations that apply to "federal funds". Nor do we believe that it is in the best interests of the national legal services community for LSC to be considered a "federal agency" for purposes of its regulatory status and need for appropriate independence.

3. LSC Refraining from Issuing Guidance: While NJP understands and, again, appreciates LSC's desire to assist recipients in serving LEP populations, NJP sees little value to the proposal that it "commend" the DOJ guidance to grantees, while recognizing that the DOJ guidance is not directly applicable to LSC funds and is aimed at a "somewhat different"

grantee population. LSC recognizes that many, if not most, recipients are already subject to the DOJ LEP guidance through their receipt of grants from federal agencies, including DOJ. In our view, the present publishing of the request for comment in the Federal Register accomplishes the goal of reminding grantees of the DOJ guidance and encouraging grantees to consider how it applies to their service obligations. What is needed is the information and assistance that might be available through LSC and other organizations about how best to meet LEP service and accessibility needs. Thus, in our view, nothing is accomplished by formal “commendation” of the DOJ guidance without practical and constructive information and resources being made available for grantee implementation of LEP access strategies. (See discussion of no. 5 below.)

4. LSC Refraining from Taking Any Action: In our view, for the reasons stated above doing nothing at this point is more desirable than taking any of the above actions in isolation. However, as set out below, NJP believes that the most constructive role LSC can play is to work with grantees, LEP advocacy groups, and other organizations such as NLADA, ABA, NAIP and others committed to the mission of equal justice, to provide technical support, assistance, and funding to ensure appropriate and effective access to legal services resources for LEP client communities.

5. Other Actions: NJP urges LSC to play the valuable and needed “catalyst” role for the identification, collection and dissemination of information regarding effective methods and strategies for serving LEP communities. LSC need not take on these specific tasks directly, but could potentially contract with other organizations with relevant expertise and significant contact with LSC grantees to accomplish these goals. In addition to collecting and disseminating these resources, LSC should consider undertaking the following activities:

- (1) sponsoring conferences or training events related to LEP services;
- (2) asking grantees to consider LEP service needs as part of state planning;
- (3) compiling and analyzing information regarding language assistance/interpreters costs and ensure funding for grantees’ LEP service needs;
- (4) negotiating discounted language assistance/interpreter services for grantees from national providers;
- (5) exploring and providing grantees with translation technology, etc.

If LSC chooses to become the catalyst for these and/or other similar activities, NJP also urges that such activities extend beyond grantees and incorporate other providers of civil legal services to the poor. In a preliminary effort to assist LSC in this endeavor, I enclose for your review and possible dissemination information the following materials:

- Agenda from a recent training event held for providers in Washington on LEP access
- Materials developed by NJP staff:
 - Tips on Working with An Interpreter

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- Forms used by NJP to identify interpreter/translation needs and confirmation of interpreter services*

We also encourage LSC to consult the NJP web-site for examples of legal information available in languages other than English.

Thank you, again, for the opportunity to comment. If you have any questions regarding these comments, please feel free to contact me.

Sincerely,

Deborah Perluss
Director of Advocacy/General Counsel

Cc Patrick McIntyre
Gillian Dutton

* NJP maintains an extensive list of interpreters that can be readily called upon as needed. While it is an excellent example of the breadth of language assistance available in our service area, and how contact/language assistance information can be organized, it is not included here as it contains personal identifying information of the interpreters.