NEW YORK STATE BAR ASSOCIATION

WORKSHOP K.

Moving Towards Civil Gideon

2014 Legal Assistance Partnership Conference

Hosted by:
The New York State Bar Association
and The Committee on Legal Aid

NYSBA

NEW YORK STATE BAR ASSOCIATION
2014 PARTNERSHIP CONFERENCE

K. BREAKING DOWN THE BARRIERS TO LANGUAGE ACCESS

AGENDA

September 12, 2014
1:30 p.m. – 3:00 p.m.

1.5 Transitional CLE Credits in Professional Practice.
Under New York's MCLE rule, this program has been approved for all attorneys, including newly admitted.

Panelists:
Linda R. Hassberg, Esq., Senior Staff Attorney, Empire Justice Center
Cheryl Keshner, Senior Paralegal/Community Advocate, Empire Justice Center
Robin Marable, Esq., Staff Attorney, Legal Assistance of Western New York
Amy S. Taylor, Esq., Senior Staff Attorney/Coordinator, Equal Rights Initiative, Legal Services NYC

I. Overview of the Language Access Requirements **1:30 pm – 1:45 pm**
- a. Title VI
- b. Executive Order 13166
- c. State and County Initiatives

II. Language Access in Housing **1:45 pm – 2:05 pm**
- a. HUD Requirements
- b. Fair Housing Act
- c. Strategies to Preserve and Access Housing

III. Language Access and Policing **2:05 pm – 2:25 pm**
- a. *Sandoval v. Alexander*, 532 U.S. 275 (2001)
- b. Equal Protection Clause
- c. Disparate Impact Suits
- d. Executive Order 120 – NYC EO
- e. Consequences of Language Barriers in Law Enforcement
- f. Best Practices in Law Enforcement

IV. Social Services/Public Benefits **2:25 pm – 2:40 pm**
- a. Agency Requirements to Provide Interpretation and Translation
- b. Supplemental Nutritional Assistance Programs (SNAP)
- c. TANF
- d. State Benefits and Programs
- e. Fair Hearings
- f. State Directives

IV. Social Services/Public Benefits (continued) **2:25 pm – 2:40 pm**

g. Strategies for Gaining Improvements at Local Agency
h. Community Advocacy/Coalition Building

IV. Language Access in the Healthcare Context **2:40 pm – 3:00 pm**

a. Strategies for Effective Enforcement and Implementation
b. Long Island Hospital Case Study
c. Questions

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Substantive Outline

K. BREAKING DOWN THE BARRIERS TO LANGUAGE ACCESS

OUTLINE

I. OVERVIEW OF RULES AND REGULATIONS REQUIRING LANGUAGE ACCESS

A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.).

1. Provides that no person shall ‘‘on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.’’ Section 602 authorizes and directs Federal agencies that are empowered to extend Federal financial assistance to any program or activity “to effectuate the provisions of [section 601]...by issuing rules, regulations, or orders of general applicability.”

B. *Lau v. Nichols*, 414 U.S. 563 (1974).

1. The Supreme Court, in *Lau v. Nichols*, 414 U.S. 563 (1974), interpreted regulations promulgated by the former Department of Health, Education, and Welfare, including a regulation similar to that of DOJ, to hold that Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national-origin discrimination.

C. Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” 65 Fed. Reg. 50121 (August 16, 2000).

1. Executive Order 13166 requires federal agencies to assess and address the needs of otherwise eligible persons seeking access to federally conducted programs and activities who, due to LEP cannot fully and equally participate in or benefit from those programs and activities. Section 2 of the Executive Order 13166 directs each federal department or agency "to prepare a plan to improve access to…federally conducted programs and activities by eligible LEP persons… Once finalized, such plans are to be filed with the Department of Justice as the central repository of agencies' plans." (http://www.lep.gov/guidance)

D. DOJ LEP Guidance

1. The DOJ issued guidance pursuant to Executive Order 13166 to Federal agencies explaining their obligations under Executive Order 13166.
2. The DOJ recommended recipients of Federal funding consider four factors when developing LEP plans:
    a. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
    b. The frequency with which LEP individuals come in contact with the program;
    c. The nature and importance of the program, activity, or service provided by the program to people's lives; and
    d. The resources available to the grantee/recipient and costs.

3. The DOJ also issued a Self-Assessment Tool for recipients of Federal funds (http://onlineresources.wnylc.net/pb/orcdocs/LARC_Resources/DOJGuidance/DOJLEPSelfAssessmentTool.pdf)

E. New York State Executive Order Number 26

1. Governor Cuomo signed Executive Order No. 26 which requires state agencies that interact with the public to translate vital documents into the top six non-English languages spoken by LEP New Yorkers and to provide interpretation services in any language.
2. The Order also requires these state agencies to assign a Language Access Coordinator, who will be responsible for implementing language access plans in their agencies.

F. New York City Executive Order

1. On July 2008, Mayor Michael Bloomberg signed Executive Order 120, which requires all City agencies to provide opportunities for Limited English speakers to communicate and receive services.

G. Suffolk County Government Executive Order

1. On November 14, 2012, Suffolk County Executive Steve Bellone signed Executive Order 10-2012, which directs executive county agencies that provide direct public services to offer language assistance services (translation and interpretation) to people of Limited English Proficiency (LEP). This was the result of grassroots advocacy efforts.
2. County agencies are required to provide translation services in the six most common non-English languages spoken by LEP individuals in Suffolk County, based on the United States census data and relevant to services offered by each of such agencies. At the time the order was signed Italian, Polish, Spanish, traditional Chinese, Portuguese, and Haitian-Creole were identified as the top six languages. Agencies may add additional languages based on their experience and other federal requirements
3. Nassau County Executive Orders 67 (signed 7/31/13) and 72(signed 8/15/13) also mandate language access in county agencies with frequent public contact. This also was the result of grassroots advocacy efforts.

II. LANGUAGE ACCESS ISSUES AND HOUSING

A. Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons," 72 FR 2732 (January 22, 2007).

1. HUD issued guidance to federal recipients of federal financial assistance
2. Entities receiving federal financial assistance include:
    a. Public Housing Authorities
    b. Private owners of all multifamily subsidized housing – Section 202, 811, 236, etc.
    c. CPD programs: CDBG/HOME, Shelter Plus Care, HOPWA, etc.
    d. USDA Rural Development Housing
    e. LIHTC - HUD/IRS say tax credits are not covered, but can we advocate that they are

f. The complete list of federally assisted housing programs subject to Title VI, is available at HUD List of Federally Assisted Programs, 69 F.R. 68700 (Nov. 24, 2004).

3. Recipients of Federal Funds Must:
    a. Conduct the four-factor analysis;
    b. Develop a Language Access Plan (LAP); and
    c. Provide appropriate language assistance.

B. <u>The Office of Public and Indian Housing has identified the following non-exhaustive list of "vital" documents:</u>

1. The tenancy addendum for the Section 8 voucher program,
2. Housing Assistance Payment contract,
3. Request for Tenancy Approval,
4. Authorization for Release of Information, i.e. Family Self Sufficiency (FSS) Escrow Account worksheet,
5. Voucher, Statement of Homeownership Obligations, FSS contract of participation and the document entitled "A Good Place to Live."

C. <u>HUD has already translated the "How Your Rent is Determined" fact sheet.</u>

D. <u>Oral Interpretation</u>

1. Can use bilingual staff
2. Strongly discourage use of friends and family (conflict of interest, candidness, etc.)
3. Cannot use minor child as interpreter

III. FAIR HOUSING ACT

A. <u>Prevents discrimination based on race, color, religion, national origin, gender, familial status, and disability</u>

B. <u>The Fair Housing Act (FHA) prohibits discrimination by direct providers of housing, such as:</u>

1. Landlords,
2. Sellers whose discriminatory practices make housing unavailable to persons of a protected class.

C. <u>FHA prohibits discrimination by indirect providers of housing such as</u>

1. Real estate companies,
2. Realtors,
3. Banks or

Other lending institutions

D. <u>The Ms. Murphy exception</u>

1. The Fair Housing Act exempts owner-occupied buildings with no more than four units
2. It also prohibits discrimination by indirect providers of housing such as:
    a. Real estate companies,
    b. Realtors,
    c. Banks and other lending institutions, and
    d. Homeowners/renters insurance companies

E. **<u>Provides a private right of action and applies to private landlord</u>** (recipients that do not receive federal assistance)

IV. PRESERVING ACCESS TO HOUSING

A. <u>Using LEP obligations</u>

1. to ensure that recipients of federal financial assistance are meeting obligations and providing appropriate language assistance at admission and termination case studies and analysis of conciliation agreements

B. <u>Using the Fair Housing Act</u>

1. as a remedy to housing discrimination case studies

V. PROMISING PRACTICES

A. <u>Language Access and Policing</u>

1. Title VI applies since law enforcement agencies federally funded
2. *Lau* has been limited but is still good law. Although the Court's ruling in *Lau* has since been limited, its core holding – that denial of language access constitutes a Title VI violation – has never been overruled. *See, Colwell v. Dep't of Health & Human Servs.,* 558 F.3d 1112, 1116-17 (9th Cir. 2009) (noting *Lau's* holding that "discrimination against LEP individuals was discrimination based on national origin"); *Sandoval v. Hagan,* 197 F.3d 484 (11th Cir. 1999), *rev'd sub nom Alexander v. Sandoval on other grounds,* 532 U.S. 275 (2001) (holding that under Title VI "both Supreme Court precedent and longstanding congressional provisions and federal agency regulations have repeatedly instructed state entities for decades that a nexus exists between language and national origin.")
3. *Sandoval v. Alexander*, 532 U.S. 275 (2001): no private right of action to enforce disparate impact claims, must be enforced through administrative complaint mechanism.
4. Intentional claims retain private right of action. Intentional claims may be important tool after years of advocacy.
5. On June 18, 2002, the U.S. Department of Justice ("DOJ") published guidance for state and local law enforcement agencies, including the NYPD, which explained that failure to ensure participation of LEP individuals can constitute discrimination based on "national origin" for the purposes of Title VI. 67 Fed. Reg. 41455, 41457.
6. The DOJ coordinates government-wide compliance with Title VI and its interpretation of the statute is entitled to special deference. *Maricopa County* at 1080, *See* Exec. Order No. 12250, 45 Fed. Reg. 72,995 (Nov 2, 1980); *Consol. Rail Corp. v. Darrone*, 465 U.S. 624, 634 (1984); *Andrus v. Sierra Club*, 442 U.S. 347, 357-58 (1979).
7. The majority of federal agencies have issued policy guidance under Title VI that, following the lead of the Department of Justice, interpret the statute to require recipients of federal funds to provide meaningful access for LEP individuals. *See, e.g.* Department of Health and Human Services Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 68 Fed. Reg. 47311 (August 8, 2003); Department of

Homeland Security Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755 (April 18, 2011); Department of Housing and Urban Development Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 72 Fed. Reg. 2732 (Jan. 22, 2007); Department of Labor Enforcement of Title VI of the Civil Rights Act of 1964, Policy Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 68 Fed. Reg. 32289 (May 29, 2003); Department of Transportation Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons, 70 Fed. Reg. 74087 (December 14, 2005).

B. Equal Protection Clause

1. Require showing of intent on behalf of discriminating entity
2. Case law is not as clear as Title VI on nexus between national origin and LEP access

C. New York City Human Rights Law

1. Very strong anti-discrimination protections including prohibition of discrimination based on national origin
2. Allows for disparate impact suits

D. Executive Order 120 – NYC EO – (materials)

E. New York City Police Department Policy and Procedures – (materials)

VI. CONSEQUENCES OF LANGUAGE BARRIERS IN LAW ENFORCEMENT

A. Lack of access to services: protection, Domestic Incident Reports, complaints

B. Law enforcement use bystanders to interpret; family members and children

C. LEP individuals, often crime victims, are wrongfully arrested

VII. BEST PRACTICES IN LAW ENFORCEMENT

A. SFPD and other departments eliminating use of bystanders except for exigent circumstances

B. Creative training initiatives

C. Increased use of language line

D. Incentives for bilingual officers

E. Monitoring and tracking

VIII. SOCIAL SERVICES/PUBLIC BENEFITS

A. Agencies such as DSS/HRA that administer federally funded benefits and programs

1. Must comply with federal requirements for language access.
    a. Supplemental Nutritional Assistance Programs (SNAP)

B. Federal SNAP/Food Stamp law

1. Generally requires the state to provide appropriate bilingual personnel and written materials in administering the program in areas with significant LEP populations. 7 U.S.C. § 2020 (e);

C. Implementing regulations at 7 C.F.R. 272.4

1. Generally requires the state to estimate the number of LEP households, and provide bilingual services based on the estimate.

    a. Translated **informational** materials must be made available as follows: In project areas with less than 2,000 low-income households, if approximately 100 or more of those households are Single Language Minority (SLM); or

    b. In project areas with 2,000 or more low-income households, if approximately 5 percent or more of those households are SLM.

D. The State agency responsible for SNAP must provide translated certification materials and bilingual staff or interpreters as follows:

1. In each individual certification office that provides services to an area containing approximately 100 SLM minority low-income households; and
2. In each project area with a total of less than 100 low-income households if a majority of those households are SLM.

E. "Certification materials" includes:

1. the food stamp application form,
2. change report form,
3. and notices to households

F. Additionally, the local SNAP office must:

1. Prominently display information about the right to file a Title VI discrimination complaint. 7 CFR 272.6(f)
2. Provide an interpreter or bilingual worker for an eligibility interview. 7 CFR 272.4(b)(2)(ii)(C)(4).

G. TANF

IX. STATE BENEFITS AND PROGRAMS

A. Generally, discrimination by social services districts based on national origin is illegal. 18 NYCRR 303.1

B. The Governor's Executive Order includes OTDA, a state agency.

1. However, OTDA's implementation plan limits the coverage of the Executive Order to state-controlled programs and operations. Therefore,

    a. Fair hearings are included, but

    b. County DSS office operations less defined

C. DOH's implementation plan

1. Is broader, but the county offices are now handling far fewer Medicaid matters.

D. 06- ADM- 05 (Providing Access to Temporary Assistance Programs for Persons with Disabilities and/or Limited English Proficiency)

1. provides the most comprehensive guidance on the rights of LEP applicants and recipients

E. Districts have the responsibilities to:

1. Ensure that applicants for and recipients of TA, FS and HEAP have equal access to all benefits, programs and services for which they are eligible, including those offered by other agencies operating on behalf of a district;
2. Ensure that emergency/immediate needs are addressed as may be appropriate to the case, and protect the filing or application date when an appointment is rescheduled for a person with a disability and/or LEP because reasonable accommodations cannot be made or no interpreter is available on the date the application is filed;
3. Document any limitations, necessary accommodations and/or LEP requirements to ensure access and coordinate services
4. Provide information to applicants and recipients of public assistance or care, and not discriminate against anyone making the inquiry based on race, color, religion, national origin, age, sex, handicap (physical or mental impairment), genetic pre-disposition or carrier status, creed, arrest/convictions, marital status, sexual orientation, military status and/or retaliation; and
5. Assign a person to serve as ADA and LEP contact(s), to investigate any complaints of discrimination or improper case administration.

X. STRATEGIES FOR PROMOTING AND ENSURING LANGUAGE ACCESS AT LOCAL SOCIAL SERVICES DISTRICTS

A. Fair Hearings

1. Just cause: Lack of language access for A/R can be the basis for a just cause determination for failure to comply
2. Sample DAFHs

B. Freedom of Information Requests

1. Request Language Access Plan and Procedure
2. Identify Language Access Coordinator (if any)
3. Find out which documents have been translated
4. With what frequency is agency using interpreters?
5. Are interpreters and translators competent?

C. Community Advocacy

1. Canvass offices for signage
2. Review notices to LEP A/Rs
3. Telephone and in person testing – requesting assistance in another language, checking automated messages
4. Contacting local commissioners about specific language access problems.
5. Gather stories

D. Education

1. Know your rights campaign for LEP users of Social Services Depts.
2. Encouraging people to file complaints to the local district and OTDA

E. Coalition Building: Creating legal/non-legal partnerships/identifying allies

F. Language Access in the Healthcare Context

1. Strategies for Effective Enforcement and Implementation

G. Language Access and the Affordable Care Act

1. Review of Nondiscrimination Provision, Section 1557 of the ACA (42 U.S.C. 18116)
    a. "…[A]n individual shall not, on the ground prohibited under title VI of the Civil Rights Act of 1964 …, title IX of the Education Amendments of 1972 …, the Age Discrimination Act of 1975 …, or section 794 of title 29, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance, or under any program or activity that is administered by an Executive Agency or any entity established under this title…. The enforcement mechanisms provided for and available under such title VI, title IX, section 794, or such Age Discrimination Act shall apply for purposes of violations of this subsection."
2. Review of Language Access & Cultural Competence Provisions Section 1001 (cultural competency/language access)
    a. "The standards shall ensure that the summary is presented in a culturally and linguistically appropriate manner and utilizes terminology understandable by the average plan enrollee."
3. Section 1311(cultural competency/language access)

H. "Plain Language"

1. ''plain language'' means language that the intended audience, including individuals with limited English proficiency, can readily understand and use because that language is concise, well-organized, and follows other best practices of plain language writing."
    a. 45 CFR 155.205(c)(language access)

I. Accessibility

1. Information must be provided to applicants and enrollees in plain language and in a manner that is accessible and timely to—
    a. Individuals who are limited English proficient through the provision of language services at no cost to the individual, including
        i. Oral interpretation;
        ii. Written translations; and
        iii. Taglines in non-English languages indicating the availability of language services."

J. ACA Language Access Challenges

1. Review of challenges during 1st enrollment
2. Advocacy Efforts
3. Next steps & the Road Ahead
4. Long Island Hospital Case Study

K. Demographic Overview

1. Work w/ community advocates & overview of violations
    a. NYS Patient Bill of Rights

L. Advocacy Efforts

1. Best practices

Appendices

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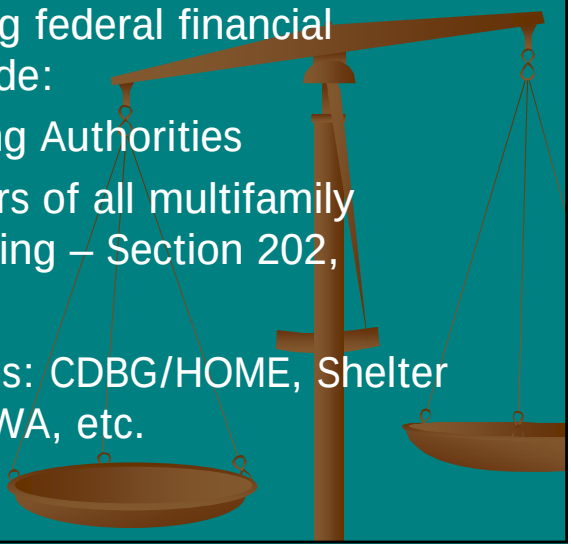
Appendix A

Language Access issues in Housing

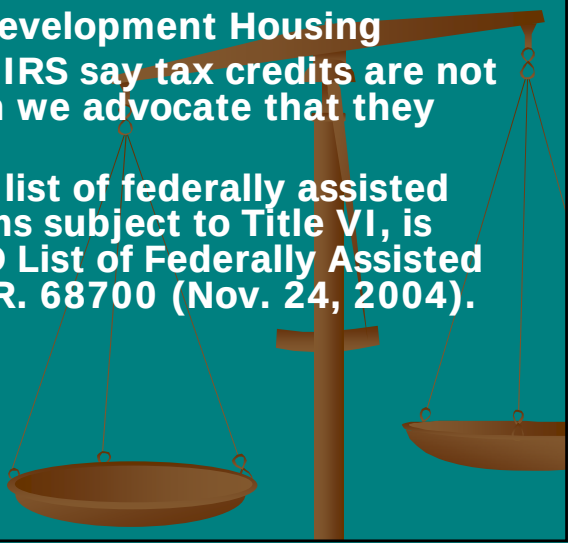
Covered Housing Programs

- Entities receiving federal financial assistance include:
- 1. Public Housing Authorities
- 2. Private owners of all multifamily subsidized housing – Section 202,
- 811, 236, etc.
- 3. CPD programs: CDBG/HOME, Shelter Plus Care, HOPWA, etc.



Covered Housing Programs (cont.)

- 4. USDA Rural Development Housing
- 5. LIHTC - HUD/IRS say tax credits are not covered, but can we advocate that they are
- 6. The complete list of federally assisted housing programs subject to Title VI, is available at HUD List of Federally Assisted Programs, 69 F.R. 68700 (Nov. 24, 2004).

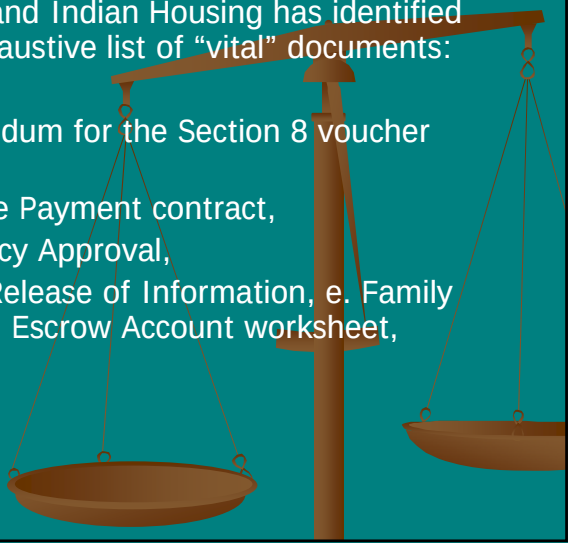


Covered Program Obligations

- Recipients of Federal Funds Must:
- i. conduct the four-factor analysis;
- ii. develop a Language Access Plan (LAP); and
- iii. provide appropriate language assistance.

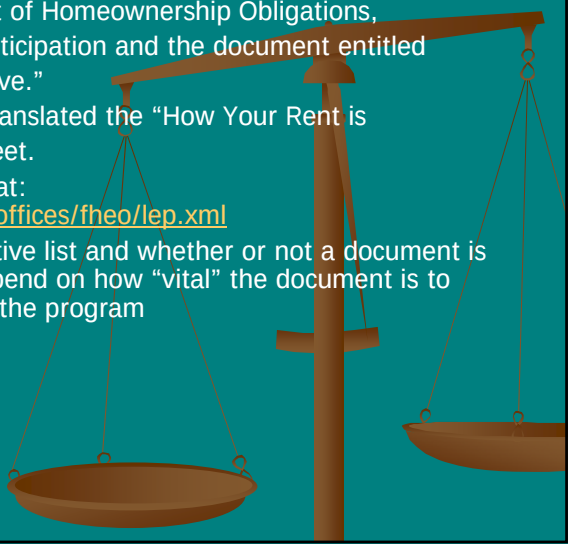
What is a vital document

- ✓ The Office of Public and Indian Housing has identified the following nonexhaustive list of "vital" documents:
- a. the tenancy addendum for the Section 8 voucher program,
- b. Housing Assistance Payment contract,
- c. Request for Tenancy Approval,
- d. Authorization fro Release of Information, e. Family Self Sufficiency (FSS) Escrow Account worksheet,



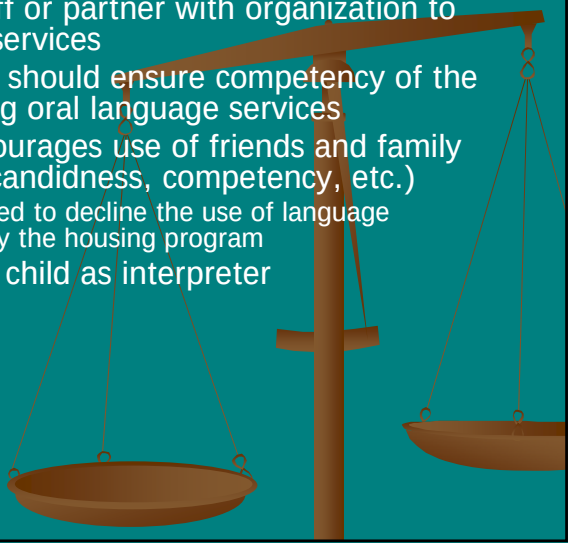
Vital Documents (Cont.)

- f. Voucher, Statement of Homeownership Obligations,
- g. FSS contract of participation and the document entitled "A Good Place to Live."
- h. HUD has already translated the "How Your Rent is Determined" fact sheet.
- Documents available at: http://www.hud.gov/offices/fheo/lep.xml
- This is not an exhaustive list and whether or not a document is deemed vital may depend on how "vital" the document is to meaningful access to the program



Providing Language Services

- Can use bilingual staff or partner with organization to provide interpreting services
  - Housing providers should ensure competency of the individual providing oral language services
- b. HUD strongly discourages use of friends and family (conflict of interest, candidness, competency, etc.)
  - An individual is entitled to decline the use of language assistance provided by the housing program
- c. Can not use minor child as interpreter

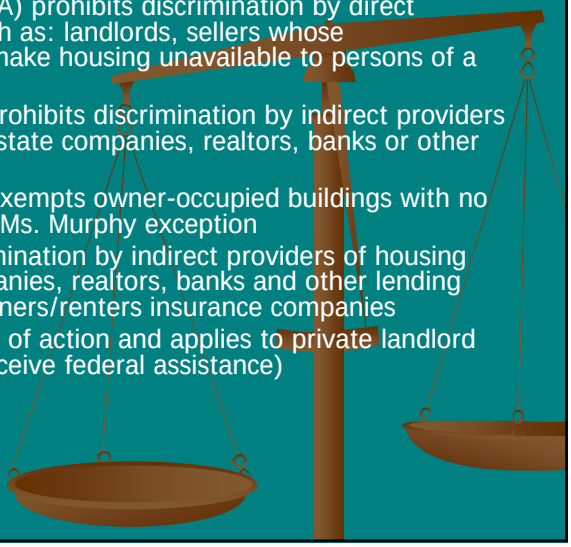


Fair Housing Act

- Federal Fair Housing Amendments Act - 42 USC §§ 3604 et seq. (1988) prohibit discrimination based on:
- Race, Color, Religion, National Origin, Gender, Familial Status, and Disability

Fair Housing Act (Cont.)

- The Fair Housing Act (FHA) prohibits discrimination by direct providers of housing, such as: landlords, sellers whose discriminatory practices make housing unavailable to persons of a protected class.
- c. The Fair Housing Act prohibits discrimination by indirect providers of housing such as real estate companies, realtors, banks or other lending institutions
- d. The Fair Housing Act exempts owner-occupied buildings with no more than four units-the Ms. Murphy exception
- e. It also prohibits discrimination by indirect providers of housing such as real estate companies, realtors, banks and other lending institutions, and homeowners/renters insurance companies
- f. Provides a private right of action and applies to private landlord (recipients that do not receive federal assistance)



Long Island Language Advocates Coalition (L.I.L.A.C.)

Mission Statement

The Long Island Language Advocates Coalition (L.I.L.A.C.) is a coalition of individuals and organizations based on Long Island who are concerned about the unequal access to programs, such as health care, law enforcement, social services, education, and justice through the courts, by persons with limited English proficiency. We seek to assure that all our community members receive full and equal access to these programs and services. We aim to do this by highlighting the systemic issues that create barriers to meaningful access, advocating for the removal of these barriers, and educating on the advantages of systemic change.

History

In the fall of 2010, advocates from community organizations on Long Island came together at Touro Law Center to explore common concerns regarding the lack of available services for people with limited English proficiency (LEP). We identified a number of government funded service providers who were not meeting their obligations under Titled VI of the Civil Rights Act, including the police department, the Department of Social Services and the Suffolk County court system. We sent out inquiries to other organizations to see if they were observing similar problems. The response was tremendous. Advocates from all across Long Island came forward with similar stories about failures within the system to provide meaningful access to services for people who speak, read or write little or no English. Many had experienced difficulty accessing healthcare or domestic violence services. We decided that we wanted to take action to address these inequities. And so, the Long Island Language Advocates Coalition (LILAC) was born.

Committees

Court Committee
The mission of the LILAC Courts Committee is to champion the rights of LEP persons throughout the judicial system by ensuring that New York courts comply with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000d; any other applicable laws; and the United States Department of Justice requirements relating to language access, which include, but are not limited to proper signage, qualified interpretation, and translation services, in order to ensure that due process is provided to all persons regardless of their ability to read, speak, or write English.

Police Committee
The Police Committee of LILAC concentrates on advocating and improving access and services for LEP people related to the police department. We focus on ensuring that adequate translation services are provided and being used, that police directives concerning LEP persons are being implemented and support efforts to increase the number of bilingual officers.

Social Services Committee
The purpose of the Social Services Committee is to obtain meaningful access for LEP people to all programs and services, which are administered by the Department of Social Services. This includes benefits such as food stamps, Medicaid, public assistance, emergency services, and childcare. We seek to reduce the barriers which LEP people face when trying to access these services by documenting these problems, monitoring our local agency, and advising them regarding best practices so that they can make the necessary improvements.

Education Committee
The mission of the Education Committee is to provide support and guidance with a holistic approach to educational organizations that serve LEP community members. In addition, the Educational Committee is willing to assist the educational organizations to implement cultural and linguistically appropriate services for the benefits of the community and the upcoming generations.

Health Committee
The Health Committee under LILAC is concerned with the unequal access to LEP persons in the areas of hospitals, clinics and all medical concerns. The committee seeks to insure that the LEP population receives full and equal access to health systems that will improve their quality of life.

Some of LILAC's Accomplishment

- LILAC members have been meeting on a monthly basis since 2010. Our membership continues to grow and includes advocates from a diversity of organizations in both Nassau and Suffolk counties.
- LILAC's Court committee submitted a Freedom of Information Request (FOIL) to the New York State Office of Court Administration regarding the use of in-person and telephone interpreters in the Suffolk County Family Court. After meeting with the Suffolk Courts Administrator, the Family Courts improved their signage, more staff training was provided, and the use of interpreter phone service increased.
- LILAC partnered with other organizations and successfully advocated in favor of the Safe RX Bill requiring labeling of prescription drugs in the patient's native and in an easy-to-understand language.
- LILAC's Social Services Committee has met with the commissioner and administration of the Suffolk County Department of Social Services on numerous occasions to discuss the adequacy of phone line services to LEP individuals. As a result, the agency reassigned bilingual workers to the Emergency Services Unit and HEAP Unit. Our recommendations also made the Department of Social Services improve their signage in their offices, translating documents, offering cultural diversity trainings, and develop an LEP task force.
- LILAC successfully advocated with the Town of Islip to improve translation of their Section 8 housing subsidy application and website. We also obtained a 30-day extension of the deadline to permit LEP applicants to apply for Section 8 vouchers while the application form was being properly translated.
- LILAC's Police Committee submitted a FOIL request to the Suffolk County Police Department regarding their translation and interpretation policies and also maintained an ongoing dialogue with them. Our advocacy resulted in improved signage, training, and the issuance of an updated LEP directive for the Suffolk County Police Department on February 4, 2011.
- On September 21, 2011, following the issuance of the Department of Justice recommendations, LILAC participated in a press conference at the Suffolk County Police Department Third Precinct urging the police to remove the barriers to equal justice for LEP people.
- On January 19, 2012, LILAC met with members of the Suffolk County Executive's Office to inform them of the problems LEP Suffolk County residents experienced when trying to access government-funded programs and services. We encouraged the County Executive to take immediate action to address these problems on a countywide level.
- On November 9, 2012, LILAC successfully held its first annual conference titled "Everyone is Talking about it: Raising Awareness about Language Access for a Better Long Island."
- On November 14, 2012, Suffolk County Executive Steve Bellone signed a Language Access Executive Order (10-2012) requiring county agencies to translate vital documents into the six most commonly used languages and provide interpretation for people who are LEP by November 14, 2013. LILAC has worked together with the County Executive's office and various organizations to ensure its enactment, to review the agency language access plans and to monitor its implementation.
- Since its inception, LILAC members have conducted trainings for educators, librarians, healthcare providers, community advocates and various service providers
- On July 15, 2013 and August 30, 2013, the Nassau County Executive Ed Mangano signed two Language Access Executive Orders (67 and 72) assuring translation and interpretation services to all LEP individuals in Nassau County. These two Language Access Executive Orders would not have been possible without the advocacy that LILAC and other organizations conducted to get these two orders enacted.
- On November 15, 2013, LILAC held its second language access conference, attracting 150 participants.
- Participating organizations include: Empire Justice Center, SEPA Mujer, VIBS Family Violence and Rape Crisis Services, Brighter Tomorrows, Family Service League, LI Jobs with Justice, The Bonjour Club, Middle Country Public Library, The Early Years Institute, Southside Hospital, Sisters United in Health, National Association of Puerto Rican and Hispanic Social Workers, NY Civil Liberties Union, Neighbors in Support of Immigrants, LI Housing Services, LI Center for Independent Living, Nassau Childcare Council and others!

For further information, please visit our website: www.longislandlanguageadvocates.org or contact Cheryl Keshner, LILAC coordinator at (631) 650-2317, ckeshner@empirejustice.org.

A Health Care Language Access Success Story

New York State Public Health Regulation, 10 NYCRR §405.7 provides a Patient's Bill of Rights for hospital patients that includes the right to meaningful language access for individuals with limited English proficiency (LEP). Last year, Linda Hassberg , Senior Attorney at Empire Justice Center's Long Island office, started receiving reports from health care and community advocates that a local hospital was repeatedly failing to provide interpreter services and translation of documents to LEP patients and their families. Linda formed a team of advocates that succeeded in moving the hospital to develop and implement comprehensive language access services, policies, and procedures quickly and effectively. The following describes the efforts of the coalition and the hospital's response. [i]

Linda and the other advocates gathered individual "stories" from clients who had been patients at the hospital and enlisted the assistance of New York Lawyers in the Public Interest and the New York Immigration Coalition. The group wrote a letter to the hospital's president detailing the types of problems encountered by LEP patients and family members. The letter included specific examples of patients who had sought and been denied interpreters and essential documents. We stated that these incidents illustrated that the hospital was violating patients' rights under state and federal law and asked for a response that would address our concerns. [ii] A copy of the letter is attached as Appendix A

The hospital's Vice President for Corporate Affairs immediately contacted Linda upon receipt of the letter and asked to meet with the group to discuss the issues and concerns. The advocates who had signed the letter met with the hospital staff. In the course of a two hour meeting, issues about the quality of language services in all areas of the hospital were discussed along with possible resolutions. After the meeting, the advocates group wrote again to summarize the points raised at the meeting and to request a timely response regarding the hospital's implementation of measures to ensure meaningful language access. A copy of the second letter is attached as Appendix B.

Within 30 days, the hospital responded with a lengthy, detailed list of actions taken or proposed to provide appropriate language services. The letter, attached as Appendix C, included changes in policies and procedures designed to ensure that LEP individuals would be offered interpretation in a timely manner throughout the hospital as well as increased signage, translation of documents, procurement of technology to aid language access. We replied with an acknowledgement and request to keep us informed. One month later, the hospital sent an update:

> The following will provide you with an update relative to our efforts to improve services to LEP patients:
>
> 1. Completion of installation of Spanish directional signage at key locations in the organization
> 2. Completion of installation of signage in multiple languages indicating that we provide free interpreter services
> 3. Substantially increasing the number of forms that are available in Spanish
> 4. Installation of a dedicated phone line in the Patient Accounting Department for individuals who speak Spanish
> 5. On May 1 we will have available Spanish interpretation services when someone calls the main hospital phone number. The interpreter will be able to be included when the caller is transferred to other departments.

6. We are finalizing the agreement with the firm that provides the "MARTI" system using audio-visual translation technology
7. Signage in Spanish throughout the organization outlining [the hospital's corporate compliance program and how to access the corporate compliance officer
8. I am assured by the Patient Accounting Department that we are fully assuming our responsibility to assist patients, regardless of the language they use, with the Medicaid application process
9. The number of two headset phones used with Pacific Interpreters has been dramatically increased
10. Since January we have experienced more than a 30% increase in the amount of minutes we use with our current telephone translation service

I believe we are making progress and would appreciate any additional input you can provide.

The hospital's responses illustrate the effectiveness of this type of collective advocacy. The advocate organizations spend about two months gathering information and drafting the first letter to a hospital about the serious deficiencies in its provision of language services. Six months after receipt of the letter, the hospital has policies and procedures in place that make it one of the best medical centers for LEP individuals in the region. The advocates used legal and organizational resources to develop a solid understanding of the law and enforceability of rights along with an analysis of local experiences with the hospital. We did not anticipate such a rapid and comprehensive response from the hospital, but believe that this wonderful development happened at least in part due to the partnership between local groups that were known to the hospital and those with legal and organizational tools to communicate the seriousness of the situation and the possible adverse consequences of inaction.

The results of the collaboration between advocates and the hospital have long-term implications beyond the services to the LEP community, itself a laudable achievement. The hospital now has a much better relationship with the local organizations such that their advocates can call the hospital directly on behalf of patients and get problems resolved quickly. The improved communication and access will in turn lead to better attention to patients' need and better health care.

Additionally, the Empire Justice Center helped found the Long Island Language Access Coalition (LILAC), a coalition of organizations and individuals seeking to ensure that the LEP population receives full and equal access to programs and services on Long Island. LILAC's Health Committee will be able to use the model described here to encourage other area hospitals to provide a similar level of service to the LEP community. Perhaps the model will aid other groups across New York to do the same.

[i] The hospital consented to posting our correspondence, but asked that its name not be mentioned.

[ii] For more information on the scope and limitations of state and federal enforcement of language access rights, please look at the article posted on Empire Justice Center's website in the Civil Rights Issue Area under Language Access entitled **Hospital Care in New York:** ***Enforceability of the Right to Meaningful Language Access***

Appendix B

December 5, 2011

President and CEO
Local Hospital

Re: Language Access

Dear Mr. President:

We write on behalf of a group of health care advocates and community members to express our consternation at what appears to be a systemic failure by the Hospital to provide meaningful language access to limited English proficient (LEP) patients, family members, and other consumers of its services. Under Title VI of United States Civil Rights Act of 1964 and the regulations promulgated by the United States Department of Health and Human Services, the hospitals that receive federal funding must provide meaningful language services to their consumers. The New York State Patients' Bill of Rights also includes very specific mandates for language access services. From our observations and information received from many clients and community members, we believe that the Hospital has violated and continues to violate both federal and state law with its policies and practices of denying appropriate language services to LEP individuals.

The failure to provide language access permeates throughout the Hospital and its services. The following is a list of areas and services in which we have received reports indicating that language services are not offered appropriately. We have included examples to illustrate the problems. However, we do not believe that the list is comprehensive.

The Emergency Room

Patients and their family members are not being afforded timely and appropriate interpretation in the Emergency Room. We have had numerous reports that language access services are not offered. Moreover, if patients ask for an interpreter, they are told that no one is available and they will have to wait or have a family member or friend interpret for them.

- One example is a patient who was seen in the Emergency Room for abdominal pain. He could not speak English. The doctor who examined him relied on the patient's wife for interpretation, even though her English was not very good. The patient was prescribed pain killers and sent home. He returned several days later in severe pain and again was examined without the help of interpreter services. He was diagnosed with a ruptured colon and peritonitis and rushed into emergency surgery. The family was not provided with an interpreter to explain why he needed surgery so suddenly.

Pre-and post operative surgery

Patients and their families and friends report that they are expected to bring someone with them to interpret during pre- and post operative care.

- For example, a patient was scheduled for a breast biopsy and had to be seen for pre-surgical testing. The patient was advised by the the hospital that she had to bring her own interpreter for the appointment. A health care advocate who called the pre-surgical testing unit to confirm the appointment on the patient's behalf was clearly told that someone had to come with the patient for the pre-surgical testing because no staff member in that unit that spoke Spanish. The advocate accompanied the patient to her pre-surgical testing appointment and was informed by the nurse on pre-surgical testing that an English speaking person had to come with the patient; the nurse emphasized that the lack of a translator would delay the procedure time.

  On the day of the biopsy, the advocate accompanied the patient and interpreted for the nurse, the anesthesiologist and the surgeon, who spoke some Spanish. Upon checking in at registration, the advocate was told to give her name and phone number as a contact. At the end of the procedure, the advocate was called and told to return to the the hospital to interpret again even though the patient's husband was in the waiting room because the husband only spoke Spanish.

Inpatient Care

LEP patients and their families have great difficulty in getting interpreter services during their hospital stay.

- One patient remained in the Hospital for five days after surgery. All explanations regarding the outcome of surgery and necessary post-operative care and recuperation were given in English. The patient's wife tried to interpret, but did not understand everything they were told.

Discharge

Patients complain that oral discharge instructions are often only given in English, even if the discharge papers are in Spanish. Furthermore, a telephone number to call with questions or problems is listed on the discharge papers, but the people who answer the telephone to answer questions do not speak Spanish.

Insurance Applications

Patients who do not speak English well and who need assistance in applying for Medicaid or some other type of health care insurance are often referred to local community organizations rather than receiving assistance by the Hospital staff who have training and expertise.

- Spanish-speaking patients seeking coverage of the hospital costs through Emergency Medicaid are frequently sent to the North Fork Spanish Apostolate for help with their applications, even when information from the doctor or the Hospital is needed to complete the application.

Financial Assistance

Financial Assistance forms are provided only in English. Applicants complain that they cannot get help with document translation or interpretation when seeking charity care even though the Financial Assistance Summary provided to patient states clearly (in English) that assistance is available in other languages.

- One patient received a bill for an Emergency Room visit. She did not have health insurance and could not afford to pay the bill. She called to make an appointment at the Financial Assistance Office and asked to speak to someone in Spanish about her case. She was informed that no one in that department spoke Spanish.

Signage

Directional and informational signs throughout the the hospital are solely in English. There are a few signs posted for LEP consumers stating that "We Speak Your Language." However, it does not seem that the Hospital's staff has been trained to respond to people who attempt to get interpretation by employing the signs.

- Two patients sent by a local clinic to Radiology mistakenly used the Emergency entrance to the Hospital rather than the main entrance. They were unable to ascertain from the signs where they should go. They both asked for assistance after seeing the "We Speak Your Language" sign, but did not receive any assistance from the Emergency area staff.

Website

The Hospital serves a local population that is fourteen percent (14%) Latino. A survey of the website reveals that there is no information about the Hospital or its services in any language other than English.

The problems outlined above represent a serious, systemic failure to provide meaningful language access to LEP individuals throughout your institution, in violation of state and federal

law. They further indicate a lack of concern on the Hospital's part to offer safe and effective care to all its patients and visitors, regardless of national origin.

We trust that you understand the gravity of these complaints and will move quickly to remedy the situation in every aspect. We would like a written response within thirty days of the date of this letter, explaining your current policies, procedures, and practices with regard to language access and the changes to these practices that the Hospital has made and intends to make to ensure that all LEP consumers are given appropriate and timely language services. We will take action to alert the proper governmental and the hospital oversight agencies of our concerns regarding the Hospital's language access deficiencies if we do not receive a satisfactory response. We would be happy to meet with you to discuss the situation further. Please contact Linda Hassberg, whose telephone number and address are listed below, if you wish to set up a meeting.

Sincerely,

Linda R. Hassberg, Esq.
Empire Justice Center
Touro Law Center PAC
225 Eastview Drive, Room 222
Central Islip, New York 11722
631-650-2305

Jennifer Torres
New York Immigration
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137-139 W. 25th Street
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Shena Elrington
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New York, N.Y. 10001

January 24, 2012

VIA MAIL & EMAIL

Vice President for Corporate Affairs
The Hospital

Re: Language Assistance

Dear Mr. Vice President:

Thank you for meeting with us on January 10th to discuss our concerns relating to the Hospital's failure to provide adequate and appropriate language assistance services to patients with limited English proficiency (LEP). We appreciate that you are taking these concerns seriously and are willing to take immediate measures to rectify the problems that were discussed at the meeting and in our letter.

We have reviewed the "to do" items you listed in your January 11th email to us concerning the steps you plan to take to ensure that the Hospital complies with federal and state language assistance laws. Based on the concerns we raised during our meeting with you, we would like to add several items to your list, including:

- Posting signage in appropriate areas regarding the availability of free language assistance services in public entry locations and other public locations
- Posting signage to help LEP patients locate various departments, including the Radiology Department, within the Hospital
- Translating significant hospital forms, including consent forms, discharge notices and instructions, and financial assistance documents and applications into languages, including Spanish, spoken by more than 1% of LEP groups in the Hospital's service area
- Implementing a language access policy that ensures that family members will not be used as interpreters, unless the patient agrees to their use or refuses the free interpretation services offered by the Hospital.
- Ensuring that physicians and residents, with some knowledge of Spanish or another language, have the appropriate competency to communicate effectively with LEP patients
- Developing policies and procedures to assist LEP patients with Medicaid applications
- Refraining from directing LEP patients in need of language assistance services to North Fork Spanish Apostolate or other organizations for assistance with Medicaid applications or bills without a formal contractual arrangement to provide these services;
- Ensuring that LEP patients receive follow-up calls after discharge or treatment in their language of preference

While we appreciate your efforts to take affirmative steps to remedy deficiencies in your language access policies, we still have general – more global - concerns about the adequacy of your efforts. In particular, we are troubled by the fact that only one person appears to be responsible for providing all live interpretation, document translation, and oversight of the Hospital's language assistance services, despite the sizeable population of LEP patients in your catchment area. In addition, we are concerned that the hospital appears to lack any mechanism to coordinate language assistance services across its various departments, which makes it difficult for LEP patients to access the care they need. Lastly, we remain concerned that LEP patients receiving care in the Emergency Room do not consistently receive language assistance services – despite the critical need for such services at this stage of care.

We believe that the Hospital's current deficiencies in language assistance services identified in our letter and during our meeting on January 10th jeopardize patient safety and the ability of patients make informed decisions about their care in addition to violating their rights under federal and state laws. Therefore, it is imperative that you develop and share with us a comprehensive plan to evaluate the language assistance needs of the community you serve and to address the "to do" items on your list as well as the those enumerated in this letter. The plan should include time frames by which adequate services will be in place and identification of any outside assistance that the hospital will rely on to come into compliance. .

Kindly provide us with a copy this plan along and the hospital's language assistance policies, which should include identification of the LEP populations you serve and the person at your hospital who bears primary responsibility for providing language assistance services and ensuring that the services offered are adequate to meet the needs of LEP patients in your service area, within thirty days of receipt of this letter.

We look forward to monitoring your progress.

Sincerely,

Linda R. Hassberg, Esq.
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for the Public Interest
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New York, N.Y. 10001

February 2, 2012

Linda R. Hassberg, Esq.
Empire Justice Center
Touro Law Center PAC
225 Eastview Drive, Room 222
Central Islip, NY 11722

Dear Ms. Hassberg:

The purpose of this letter is to provide you a follow-up regarding our efforts concerning meeting the needs of patients with Limited English Proficiency. The following generally corresponds to your e-mail and letter dated January 24, 2012.

1. We have finalized the signage that will be posted throughout the facility advising individuals regarding the availability of free language assistance services. The signage will be in a number of languages including Spanish, Polish, Haitian Creole, Chinese and Russian. These signs will be placed in prominent locations. Signage will be located both on wall locations and on registration and related desks.
2. We have finalized location signage that is in Spanish that will direct individuals to areas throughout the organization. I have attached a copy of what the directional signage will look like. These will be located adjacent to entrances and elevator lobbies. It is my expectation that these will be posted in the next thirty days
3. On an ongoing basis we are translating important documents in to Spanish. The attached list is in addition to the list provided to your previously. We expect these additional forms to be available in the next month. Please note that we use an external firm to provide form translation services. Jessica R does not provide this service but coordinates this activity with our purchasing department and reviews the documents to assure their accuracy.
4. I am attaching a copy of the current language services policy which clearly states that it is against hospital policy to use family members and other individuals who are not credentialed to provide translation services. We are reviewing this policy and are in the process of updating it to insure clarity and understanding of the policy. We would appreciate any input you can provide with regard to our policy.
5. We will be using Jessica R as a resource to determine whether any of our residents and physicians can be credentialed to provide interpretation services. Until this process is completed they will not be permitted to interpret and will be required to use the services of Jessica R for Spanish and Pacific Interpreters for Spanish and other languages.
6. The business office is in the process of finalizing a specific policy regarding assisting LEP individuals with the Medicaid application process. We are also in the process of providing a specific phone extension in the business office for individuals who want to communicate in Spanish who have questions or issues involving their bill. Every patient will be given a notice concerning this extension as well as the extension for individuals who use English.

7. We will not direct individuals to the North Fork Spanish Apostolate or other organizations for assistance with Medicaid applications. We take our responsibility seriously in this area. I have spoken to Sister Margaret about this and have advised her to contact me immediately if we are not fulfilling our responsibility with regard to financial assistance and other matters involving LEP individuals.
8. We have provided in-service education for emergency department staff and the staff providing education to patients who have been admitted to the Medical Center to assure that we provide them with information in the language they want us to use. This includes both discharge instructions and medications provided at discharge. On an ongoing basis we will be identifying LEP individuals who are treated in the emergency department and elsewhere and will be reviewing the medical records pertaining to the admission of these patients to assure that we have documented and provided the necessary services that address the patient's language needs. We are implementing a methodology that addresses LEP individuals when we do call-backs to ascertain whether they have any needs upon their discharge from the Medical Center.
9. While Jessica R[redacted] provides Spanish interpretation services during the hours of 8am – 4pm, Monday through Friday we are using Pacific Interpreters and other professional translations services to provide us with Spanish translation of forms that other documents essential for patient care. We will be trying out the "MARTTI" system which is provided by a firm called Language Access Network which is a method to communicate with LEP individuals using an iPad like screen, which provides both visual and auditory capability with certified interpreters. We expect to try this system in March in both the emergency department and in the maternity areas. This technology also provides us with access to certified sign language interpreters. Based upon the results from this trial we will then make it available at the Medical Center. Language Access Network provides Spanish interpretation services along with the other major languages. For certain languages we will continue to use Pacific Interpreters.

It is our hope that this summary addresses our plan to meet the needs of LEP populations. Please note that I will be out of the office from February 14 and will be returning on February 28, 2012 should you have any questions or need further information. Upon my return I will be providing you with follow-up information as to how we are progressing.

I look forward to working with you and the other representatives we met with to enhance the resources provided to LEP individuals.

I can be contacted at [redacted].

Sincerely,

[redacted]

Vice President for Corporate Affairs

CC: Ligia Soto
Jennifer Torres
Shena Elrington
Sister Margaret Smyth
Juanita Torres

Appendix C

7 C.F.R. § 272.4 Program administration and personnel requirements.

(a) *Merit personnel.* (1) State agency personnel used in the certification process shall be employed in accordance with the current standards for a merit system of personnel administration or any standards later prescribed by the U.S. Civil Service Commission under section 208 of the Intergovernmental Personnel Act of 1970.

(2) State agency employees meeting the standards outlined in paragraph **(a)(1)** of this section shall perform the interviews required in §273.2(e). Volunteers and other non-State agency employees shall not conduct certification interviews or certify food stamp applicants. Exceptions to the use of State merit system personnel in the interview and certification process are specified in §273.2(k) for SSI households, §272.7(d) for households residing in rural Alaska, and part 280 for disaster victims. State agencies are encouraged to use volunteers in activities such as outreach, prescreening, assisting applicants in the application and certification process, and in securing needed verification. Individuals and organizations who are parties to a strike or lockout, and their facilities, may not be used in the certification process except as a source of verification for information supplied by the applicant. Only authorized employees of the State agency, coupon issuers, coupon bulk storage points, and Federal employees involved in administration of the program shall be permitted access to food coupons, ATP's, or other issuance documents.

(b) *Bilingual requirements.* (1) Based on the estimated total number of low-income households in a project area which speak the same non-English language (a single-language minority), the State agency shall provide bilingual program information and certification materials, and staff or interpreters as specified in paragraphs **(b)(2)** and **(3)** of this section. Single-language minority refers to households which speak the same non-English language and which do not contain adult(s) fluent in English as a second language;

(2) The State agency shall provide materials used in Program informational activities in the appropriate language(s) as follows:

(i) In project areas with less than 2,000 low-income households, if approximately 100 or more of those households are of a single-language minority;

(ii) In project areas with 2,000 or more low-income households, if approximately 5 percent or more of those households are of a single-language minority; and

(iii) In project areas with a certification office that provides bilingual service as required in paragraph **(b)(3)** of this section.

(3) The State agency shall provide both certification materials in the appropriate language(s) and bilingual staff or interpreters as follows:

(i) In each individual certification office that provides service to an area containing approximately 100 single-language minority low-income

households; and

(ii) In each project area with a total of less than 100 low-income households if a majority of those households are of a single-language minority.

(A) Certification materials shall include the food stamp application form, change report form and notices to households.

(B) If notices are required in only one language other than English, notices may be printed in English on one side and in the other language on the reverse side. If the certification office is required to use several languages, the notice may be printed in English and may contain statements in other languages summarizing the purpose of the notice and the telephone number (toll-free number or a number where collect calls will be accepted for households outside the local calling area) which the household may call to receive additional information. For example, a notice of eligibility could in the appropriate language(s) state:

Your application for food stamps has been approved in the amount stated above. If you need more information telephone _____.

(4) In project areas with a seasonal influx of non-English-speaking households, the State agency shall provide bilingual materials and staff or interpreters, if during the seasonal influx the number of single-language minority low-income households which move into the area meets or exceeds the requirements in paragraphs **(b)(2)** and **(3)** of this section.

(5) The State agency shall insure that certification offices subject to the requirements of paragraph **(b)(3)** or **(4)** of this section provide sufficient bilingual staff or interpreters for the timely processing of non-English-speaking applicants.

(6) The State agency shall develop estimates of the number of low-income single-language minority households, both participating and not participating in the program, for each project area and certification office by using census data (including the Census Bureau's Current Population Report: Population Estimates and Projections, Series P-25, No. 627) and knowledge of project areas and areas serviced by certification offices. Local Bureau of Census offices, Community Services Administration offices, community action agencies, planning agencies, migrant service organizations, and school officials may be important sources of information in determining the need for bilingual service. If these information sources do not provide sufficient information for the State agency to determine if there is a need for bilingual staff or interpreters, each certification office shall, for a 6-month period, record the total number of single-language minority households that visit the office to make inquiries about the program, file a new application for benefits, or be recertified. Those certification offices that are contacted by a total of over 100 single-language minority households in the 6-month period shall be required to provide bilingual staff or interpreters. State agencies shall also combine the figures collected in each certification office to determine the need for bilingual outreach

materials in each project area.

(c) *Internal controls*— (1) *Requirements.* In order to safeguard certification and issuance records from unauthorized creation or tampering, the State agency shall establish an organizational structure which divides the responsibility for eligibility determinations and coupon issuance among certification, data management, and issuance units. The certification unit shall be responsible for the determination of household eligibility and the creation of records and documents to authorize the issuance of coupons to eligible households. The data management unit, in response to input from the certification unit, shall create and maintain the household issuance record (HIR) master file on cards, computer discs, tapes, or similar memory devices. The issuance unit shall provide certified households with the authorized allotments. In cases where personnel are periodically, or on a part-time basis, shifted from one unit to another, supervisory controls should be sufficient to assure that the unauthorized creation or modification of case records is not possible.

(2) *Exceptions.* With prior written FNS approval, a project area may combine unit responsibilities if the controls specified in paragraph **(c)(1)** of this section have been found to be administratively infeasible.

(i) To receive approval of combined operations, the State agency shall establish special review requirements which at a minimum include:

(A) Biweekly reconciliation and verification of transactions; and

(B) Semiannual comparison of HIR cards and case records as required by §274.6(d) and, at least once every other month, second-party review of certification actions.

(ii) The State agency shall annually determine whether each combined operation continues to be justified and shall so advise FNS in writing.

(d) *Court suit reporting.* (1) State agency responsibility. (i) In the event that a State agency is sued by any person(s) in a State or Federal Court in any matter which involves the State agency's administration of the Food Stamp Program, the State agency shall immediately notify FNS that suit has been brought and shall furnish FNS with copies of the original pleadings. State agencies involved in suits shall, upon request of FNS, take such action as is necessary to join the United States and/or appropriate officials of the Federal Government, such as the Secretary of USDA or the Administrator of FNS, as parties to the suit. FNS may request to join the following types of suits:

(A) Class action suits;

(B) A suit in which an adverse decision could have a national impact;

(C) A suit challenging Federal policy such as a provision of the Act or regulations or an interpretation of the regulations; or,

(D) A suit based on an empirical situation that is likely to recur.

(ii) FNS may advise a State agency to seek a settlement agreement of a court suit if the State agency is being sued because it misapplied Federal policy in administering the Program.

(iii) State agencies shall notify FNS when court cases have been dismissed or otherwise settled. State agencies shall also provide FNS with information that is requested regarding the State agency's compliance with the requirements of court orders or settlement agreements.

(2) FNS shall notify all State agencies of any suits brought in Federal court that involve FNS' administration of the Program and which have the potential of affecting many State agencies' Progam operations. (State agencies need not be notified of suits brought in Federal Court involving FNS' administration of the Program which may only affect Program operations in one or two States.) The notification provided to State agencies shall contain a description of the Federal policy that is involved in the litigation.

(e) *State monitoring of duplicate participation.* (1) Each State agency shall establish a system to assure that no individual participates more than once in a month, in more than one jurisdiction, or in more than one household within the State in the Food Stamp Program. To identify such individuals, the system shall use names and social security numbers at a minimum, and other identifiers such as birth dates or addresses as appropriate.

(i) If the State agency detects a large number of duplicates, it shall implement other measures, such as more frequent checks or increased emphasis on prevention.

(ii) If the State agency provides cash assistance in lieu of coupons for SSI recipients or for households participating in cash-out demonstration projects, the State agency shall check to assure that no individual receives both coupons and other benefits provided in lieu of coupons. Checks to detect individuals receiving both food coupons and cash-out benefits, or any other form of duplicate benefits, shall be made at the time of certification, recertification, and whenever a new member is added to an existing household. However, if the State agency can show that these time frames are incompatible with its system, the State agency shall check for duplicate benefits when necessary, but no less often than annually.

(2) Processing standards for duplicate participation checks at certification and recertification shall not delay the issuance of benefits.

(i) If the State agency chooses to check at the time of certification and recertification, the check for duplicates shall not delay processing of the application and provision of benefits beyond the normal processing standards in §273.2(g).

(ii) If a duplicate is found in making such a check, the duplication needs to be resolved in accordance with §273.2(f)(4)(iv) before the application can be processed and benefits provided. Delays in processing caused by this resolution shall be handled in accordance with §273.2(h).

(3) State agencies shall develop follow-up procedures and corrective action requirements, including time frames within which action must be taken, to be applied to data obtained from matching for duplicate participation. Follow-up actions shall include, but not be limited to, the adjustment of benefits and eligibility, filing of claims, disqualification hearings, and referrals for prosecution, as appropriate.

(4) FNS reserves the right to review State agencies' use of data obtained from matching for duplicate participation and may require State agencies to take additional specific action to ensure that such data is being used to protect Program integrity.

(f) *Hours of operation.* State agencies are responsible for setting the hours of operation for their food stamp offices. In doing so, State agencies must take into account the special needs of the populations they serve including households containing a working person.

(g) *Fraud detection units.* State agencies shall establish and operate fraud detection units in all project areas in which 5,000 or more households participate in the Program. The fraud detection unit shall be responsible for detecting, investigating and assisting in the prosecution of Program fraud and need not be physically located in each 5,000 household "catchment area". The workers fulfilling this function need not work full-time in fraud detection nor work exclusively on the Program. A written State agency procedure which systematically identifies and refers potential fraud cases to Investigators shall be considered a "detection" activity meeting the requirements of this section. The fraud detection function may be performed by persons not employed by the State agency.

[Amdt. 132, 43 FR 47884, Oct. 17, 1978, as amended by Amdt. 221, 47 FR 35168, Aug. 13, 1982; Amdt. 211, 47 FR 53315, Nov. 26, 1982; Amdt. 237, 47 FR 57668, 57669, Dec. 28, 1982; Amdt. 262, 49 FR 50597, Dec. 31, 1984; 54 FR 7003, Feb. 15, 1989; 54 FR 24527, June 7, 1989; Amdt. 320, 55 FR 6238, Feb. 22, 1990; Amdt. 371, 61 FR 60010, Nov. 26, 1996; Amdt. 388, 65 FR 70192, Nov. 21, 2000]

7 C.F.R. § 272.6 Nondiscrimination compliance.

(a) *Requirement.* State agencies shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of coupons, the conduct of fair hearings, or the conduct of any other program service for reasons of age, race, color, sex, disability, religious creed, national origin, or political beliefs. Discrimination in any aspect of program administration is prohibited by these regulations, the Food Stamp Act, the Age Discrimination Act of 1975 (Pub.L. 94-135), the Rehabilitation Act of 1973 (Pub.L. 93-112, section 504), Americans with Disabilities Act of 1990 (**42 U.S.C. 12101**), and title VI of the Civil Rights Act of 1964 (**42 U.S.C. 2000d**). Enforcement action may be brought under any applicable Federal law. Title VI complaints shall be processed in accord with **7 CFR part 15**.

(b) *Right to file a complaint.* Individuals who believe that they have been subject to discrimination as specified in paragraph **(a)** of this section may file a written complaint with the Secretary or the Administrator, FNS, Washington, DC 20250, and/or with the State agency, if the State agency has a system for processing discrimination complaints. The State agency shall explain both the FNS and, if applicable, the State agency complaint system to each individual who expresses an interest in filing a discrimination complaint and shall advise the individual of the right to file a complaint in either or both systems.

(c) *FNS complaint requirements.* (1) Complaints shall contain the following information to facilitate investigations:

(i) The name, address, and telephone number or other means of contacting the person alleging discrimination.

(ii) The location and name of the organization or office which is accused of discriminatory practices.

(iii) The nature of the incident or action or the aspect of program administration that led the person to allege discrimination.

(iv) The reason for the alleged discrimination (age, race, color, sex, handicap, religious creed, national origin, or political belief).

(v) The names, titles (if appropriate), and addresses of persons who may have knowledge of the alleged discriminatory acts.

(vi) The date or dates on which the alleged discriminatory actions occurred.

(2) If a complainant makes allegations verbally and is unable or is reluctant to put the allegations in writing, the FNS employee to whom the allegations are made shall document the complaint in writing. Every effort shall be made by the individual accepting the complaint to have the complainant provide the information specified in paragraph **(c)(1)** of this section.

(3) Complaints will be accepted by the Secretary or the Administrator, FNS, even if the information specified in paragraph **(c)(1)** of this section is not complete. However, investigations will be conducted only if information concerning paragraphs **(c)(1)(ii)**, **(iii)** or **(iv)** of this section is provided.

(4) A complaint must be filed no later than 180 days from the date of the alleged discrimination. However, the time for filing may be extended by the Secretary.

(d) *State agency complaint requirements.* (1) The State agency may develop and use a State agency complaint system.

(2) The State agency shall submit to FNS a report on each discrimination complaint processed at the State level. The report shall contain as much information in paragraph **(c)(1)** of this section as is available to the State agency, the findings of the investigation, and, if appropriate, the corrective action planned or taken.

(e) *Reviews.* [Reserved]

(f) *Public notification.* The State agency shall: (1) Publicize the procedures described in paragraphs **(b)** and **(c)** of this section, and, if applicable, the State agency's complaint procedures; (2) insure that all offices involved in administering the program and that also serve the public display the nondiscrimination poster provided by FNS; and (3) insure that participants and other low-income households have access to information regarding nondiscrimination statutes and policies, complaint procedures, and the rights of participants, within 10 days of the date of a request.

(g) *Data collection.* The State agency must obtain racial and ethnic data on participating households in the manner specified by FNS. The application form must clearly indicate that the information is voluntary, that it will not affect the eligibility or the level of benefits, and that the reason for the information is to assure that program benefits are distributed without regard to race, color, or national origin. The State agency must develop alternative means of collecting the ethnic and racial data on households, such as by observation during the interview, when the information is not provided voluntarily by the household on the application form.

(h) *Reports.* As required by FNS, the State agency must report the racial and ethnic data on participating household contacts on forms or formats provided by FNS.

[Amdt. 132, 43 FR 47884, Oct. 17, 1979. Redesignated by Amdt. 211, 47 FR 53315, Nov. 26, 1982, as amended by Amdt. 356, 59 FR 29713, June 9, 1994; **71 FR 28763**, May 18, 2006, eff. June 19, 2006; **76 FR 27606**, May 12, 2011]

18 NYCRR 387.2. Responsibilities of local department.

In order to assist needy families and individuals to obtain food stamps, each local social services department shall:

(a) certify eligible families and individuals; receive, store and issue food stamp coupons, either directly, or with the approval of the department, through a banking institution or other issuing agency;

(b) continue ongoing efforts to inform low-income individuals and family households, with due regard to ethnic and disadvantaged groups, of the availability and benefits of the program; encourage the participation of all eligible households through services provided by federally funded organizations as well as other organizations;

(c) insure that food stamps provided to any eligible household shall not be considered as income or resources for any purpose under any Federal, State or local laws, including but not limited to laws relating to taxation, welfare and public assistance programs;

(d) not terminate or reduce a public assistance grant, or deny application for public assistance or care or otherwise adversely affect a family's or an individual's eligibility for public assistance or care, on the grounds that the recipient or applicant is receiving or is eligible to receive food stamp coupons, or fails to apply for or to utilize food stamp coupons;

(e) have applications readily available for potentially eligible households and provide an application to anyone requesting one;

(f) undertake the certification of applicant households in accordance with the standards used by the department in the certification of applicants for benefits under the federally aided public assistance programs;

(g) identify households eligible for expedited service;

(h) provide each applicant for public assistance, medical assistance or family and children's services with the pamphlet(s) explaining the food stamp program and provide them with the opportunity to apply for food stamps;

(i) provide each nonpublic assistance applicant for the food stamp program (excluding recipients of supplemental security income) with a pamphlet explaining the program and provide them with opportunity to apply for food stamps;

(j) restrict the use or disclosure of information obtained from applicant households to persons directly connected with the administration and enforcement of the food stamp program, other Federal assistance programs, and federally assisted State programs providing assistance on a means-tested basis to low-income households, Notwithstanding any other provision of law, the address, social security number, and if available, photograph of any member of a household must be made available, on request, to any Federal, State, or local law enforcement officer if the

officer furnishes the social services district with the name of the member and notifies the social services district that:

(1) the member:

(i) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or an attempt to commit a crime, that, under the law of the place the member is fleeing, is a felony or, in the case of the State of New Jersey, a high misdemeanor;

(ii) is violating a condition or probation or parole imposed under Federal or State law; or

(iii) has information that is necessary for the officer to conduct an official duty related to subparagraph (i) of this paragraph;

(2) locating or apprehending the member is an official duty; and

(3) the request is being made in the proper exercise of an official duty;

(k) keep such records and other information as may be required by the department, and insure that records will be available for review or audit by the United States Department of Agriculture or the department for a period of six years from the month of origin of each such record;

(l) maintain certification folders on applicants and/or recipients of food stamps. Certification folders shall contain:

(1) applications for certification or recertification;

(2) worksheets used in the computation of income for eligibility;

(3) documentation of eligibility. Such documentation shall include the method of verification used in determining eligibility;

(4) copies of forms sent to the issuance unit to authorize or change participation and/or which serve as the basis of issuance;

(5) copies of notices sent to the household and any responses to those notices; and

(6) copies of documents reflecting actions related to the fair hearing process;

(m) establish an organizational structure which divides the responsibility for eligibility determination, food stamp benefit registration, registration for a personal identification number (PIN) and registration of a common benefit identification card (CBIC) among the certification unit, data management unit, data entry unit and issuance monitoring unit so as to prevent the unauthorized creation or modification of case records. The registration of a CBIC and a PIN for

the same case cannot be performed by the same individual;

(n) submit statistics, reports and other information (including information pertaining to the work registration program) as may be required by the department. Such reports shall be submitted within the time frames established by the department;

(o) approve and issue benefits or deny applications for public assistance (PA) and non-public assistance (NPA) applicants within 30 days of receipt of an identifiable application. For residents of public institutions who apply jointly for Supplemental Security Income and food stamps as part of the Federal Social Security Administration's Pre-release Program for the Institutionalized, social services districts must approve and issue food stamp benefits or deny applications for food stamps within 30 days from the date of release of the applicant from the institution. An identifiable application is one which contains a legible name and address of the applicant or authorized representative;

(p) undertake the timely and accurate issuance of benefits to certified households. Households comprised of elderly or disabled members who have difficulty reaching an issuance office to obtain their benefits, and households which do not reside in a permanent dwelling or at a fixed mailing address, will be given assistance in obtaining their benefits:

(q) afford every applicant and participating household an opportunity for a fair hearing in accordance with the policies and procedures of the department as set forth in Part **358** of this Title;

(r) insure that the food stamp program shall in all respects be administered without discrimination because of race, religious creed, political beliefs, national origin, age or sex;

(s) prominently display in all local food stamp and public assistance certification sites posters and pamphlets provided by the department regarding:

(1) foods with substantial nutritional values and menus making use of these foods;

(2) the relationship between health and diet;

(3) an explanation of the Special Supplemental Food Program for Women, Infants and Children (WIC) and, where applicable, the Commodity Supplemental Food Program; and

(4) application processing standards and the right to file an application on the day of initial contact with a local department concerning food stamp benefits;

(t) inform all food stamp applicants and recipients of their program rights and responsibilities. Where appropriate, such information shall be provided in languages other than English;

(u) provide the household, at the time of each certification and recertification, with a toll-free or local telephone number, or a telephone number at which collect calls will be accepted, so that the household may reach an appropriate representative of the social services district.

(v) process cases in accordance with the policies and procedures of the department when a participating household received an over issuance of coupons;

(w) issue restored benefits in cases where a household has not received its coupon allotment because of an administrative error on the part of operating personnel, in accordance with policies and procedures of the department; and

(x) during an emergency or disaster and when authorized by the Secretary of Agriculture, certify households in accordance with instructions issued by the Food and Nutrition Service of the United States Department of Agriculture (FNS);

(y) provide eligible households with:

(1) a food stamp identification card and all authorizing materials necessary to obtain food stamp benefits;

(2) a personal identification number (PIN) when it is necessary to have such a code to access benefits;

(3) information regarding benefit issuance locations;

(4) information, which must include, but is not limited to, materials specifically designated by the department explaining how to use the social services district's benefit issuance system;

(5) client education and training that instructs participant households how to obtain benefits through the social services district's benefit issuance system; and

(6) information about the time period during which the household's benefits will be available on the benefit issuance system and the consequences of failing to access the benefit within that timeframe.

Historical Note: Sec. filed Aug. 26, 1964; amd. filed Sept. 17, 1965; renum. 460.2, new added by renum. 435.2, filed April 26, 1978; amd. Filed July 22, 1981; repealed, new filed May 19, 1986; amds. filed: Aug. 4, 1987 as emergency measure; Oct. 2, 1987 as emergency measure, expired 60 days after filing; Dec. 10, 1987 as emergency measure; Dec. 10, 1987; Nov. 13, 1990 as emergency measure; Feb. 11, 1991 as emergency measure; Feb. 11, 1991; June 24, 1991; Jan. 16, 1992; Aug. 23, 1993; April 11, 1996; Sept. 20, 1996 as emergency measure; Dec. 18, 1996 as emergency measure; Feb. 14, 1997 as emergency measure eff. Feb. 14, 1997; Feb. 14, 1997 eff. March 5, 1997. Amended (j).

10 NYCRR 405.7. Patients' rights.

The hospital shall ensure that all patients including inpatients, outpatients and emergency service patients, are afforded their rights as set forth in subdivision (b) of this section. The hospital's responsibility for assuring patients' rights includes both providing patients with a copy of these rights as set forth in subdivision (c) of this section and providing assistance to patients to understand and exercise these rights. Each general hospital patient who has been removed but not discharged from a hospital for the mentally ill operated or licensed under the Mental Hygiene Law shall maintain his or her status and rights as a patient pursuant to article 9 of the State Mental Hygiene Law and 14 NYCRR Part 527 (Rights of Patients).

(a) *Procedural requirements.* In order to assure that patients are made aware of, understand and can exercise their rights, the hospital shall meet the following requirements;

(1) each patient or the patient representative shall be given a copy of their rights as set forth in subdivision (c) of this section at the time of admission;

(2) for outpatients and emergency service patients, copies of these rights shall be provided to each patient or his/her representative;

(3) a copy of these rights shall also be posted in clearly viewed areas of the hospital, at readable heights, including the admitting office, patient floors and outpatient department and the emergency service waiting areas;

(4) inservice training shall be provided to all patient care staff to assure their knowledge and understanding of patients' rights requirements;

(5) the hospital shall communicate effectively to each inpatient or patient representative after admission an explanation of those rights and provide information on how these rights can be exercised. Patients shall be offered a choice at admission to have or to decline an in-person explanation of these rights. The hospital shall maintain documentation of such communication;

(6) the hospital shall make available designated staff to answer questions regarding patients' rights for outpatients and emergency service patients. Patients shall be notified of the availability of these services; and

(7) the hospital shall develop a language assistance program to ensure meaningful access to the hospital's services and reasonable accommodation for all patients who require language assistance. Program requirements shall include:

(i) the designation of a language assistance coordinator who shall report to the hospital administration and who shall provide oversight for the provision of language assistance services;

(ii) policies and procedures that assure timely identification and ongoing access for patients in need of language assistance services;

(iii) the development of materials that will be made available for patients and potential patients that summarize the process and method to access free language assistance services;

(iv) ongoing education and training for administrative, clinical and other employees with direct patient care contact regarding the importance of culturally and linguistically competent service delivery and how to access the hospital's language assistance services on behalf of patients;

(v) signage, as designated by the Department of Health, regarding the availability of free language assistance services in public entry locations and other public locations;

(vi) identification of language of preference and language needs of each patient upon initial visit to the hospital;

(vii) documentation in the medical record of the patient's language of preference, language needs, and the acceptance or refusal of language assistance services;

(viii) a provision that family members, friends, or non-hospital personnel may not act as interpreters, unless:

(*a*) the patient agrees to their use;

(*b*) free interpreter services have been offered by the hospital and refused; and

(*c*) issues of age, competency, confidentiality, or conflicts of interest are taken into account. Any individual acting as an interpreter should be 16 years of age or older; individuals younger than 16 years of age should only be used in emergent circumstances and their use documented in the medical record;

(ix) management of a resource of skilled interpreters and persons skilled in communicating with vision and/or hearing-impaired individuals;

(*a*) interpreters and persons skilled in communicating with vision and/or hearing-impaired individuals shall be available to patients in the inpatient and outpatient setting within 20 minutes and to patients in the emergency service within 10 minutes of a request to the hospital administration by the patient, the patient's family or representative or the provider of medical care. The Commissioner of Health may approve time limited alternatives to the provisions of this subparagraph regarding interpreters and persons skilled in communicating with vision and/or hearing-impaired individuals for patients of rural hospitals; which:

(*1*) demonstrate that they have taken and are continuing to take all reasonable steps to fulfill these requirements but are not able to fulfill such requirements immediately for reasons beyond the hospital's control; and

(*2*) have developed and implemented effective interim plans addressing the communications needs of individuals in the hospital service area;

(x) an annual needs assessment utilizing demographic information available from the United States Bureau of the Census, hospital administrative data, school system data, or other sources, that will identify limited English-speaking groups comprising more than one percent of the total hospital service area population. Translations/transcriptions of significant hospital forms and instructions shall be regularly available for the languages identified by the needs assessment; and

(xi) reasonable accommodation for a family member or patient's representative to be present to assist with the communication assistance needs for patients with mental and developmental disabilities.

(b) *Hospital responsibilities.* The hospital shall afford to each patient the right to:

(1) exercise these rights regardless of the patient's language or impairment of hearing or vision. Skilled interpreters shall be provided to assist patients in using these rights;

(2) treatment without discrimination as to race, color, religion, sex, national origin, disability, sexual orientation, age, or source of payment;

(3) considerate and respectful care in a clean and safe environment;

(4) receive emergency medical care as indicated by the patient's medical condition upon arrival at the hospital;

(5) limit the use of physical restraints to those patient restraints authorized in writing by a physician after a personal examination of the patient, for a specified and limited period of time to protect the patient from injury to himself or to others. In an emergency, the restraint may be applied only by or under the supervision of and at the direction of a registered professional nurse who shall set forth in writing the circumstances requiring the use of restraints. In such emergencies, a physician shall be immediately summoned and pending the arrival of the physician, the patient shall be kept under continuous supervision as warranted by the patient's physical condition and emotional state. At frequent intervals while restraints are in use the patient's physical needs, comfort and safety shall be monitored. An assessment of the patient's condition shall be made at least once every 30 minutes or at more frequent intervals if directed by a physician;

(6) the name of the medical staff member who has the responsibility for coordinating his/her care and the right to discuss with his/her practitioner the type of care being rendered;

(7) the name, position and function of any person providing treatment to the patient;

(8) obtain from the responsible medical staff member complete current information concerning his/her diagnosis, treatment and prognosis in terms the patient can be reasonably expected to understand. The patient shall be advised of any change in health status, including harm or injury, the cause for the change and the recommended course of treatment. The information shall be made available to an appropriate

person on the patient's behalf and documented in the patient's medical record, if the patient is not competent to receive such information;

(9) receive information necessary to give informed consent prior to the start of any nonemergency procedure or treatment or both. An informed consent shall include, as a minimum. the specific procedure or treatment or both, the reasons for it, the reasonably foreseeable risks and benefits involved, and the alternatives for care or treatment, if any, as a reasonable practitioner under similar circumstances would disclose. Documented evidence of such informed consent shall be included in the patient's medical record;

(10) refuse treatment to the extent permitted by law and to be informed of the reasonably foreseeable consequences of such refusal;

(11) receive from the responsible medical staff or designated hospital representatives information necessary to give informed consent prior to the withholding of medical care and treatment;

(12) privacy consistent with the provision of appropriate care to the patient;

(13) confidentiality of all information and records pertaining to the patient's treatment, except as otherwise provided by law;

(14) a response by the hospital, in a reasonable manner, to the patient's request for services customarily rendered by the hospital consistent with the patient's treatment;

(15) be informed by the responsible medical staff member or appropriate hospital staff of the patient's continuing health care requirements following discharge, and before any transfer to another facility, all relevant information about the need for and all reasonable alternatives to such a transfer;

(16) prior to discharge, receive an appropriate written discharge plan and a written description of the patient discharge review process available to the patient under Federal or State law;

(17) the identity of any hospital personnel including students that the hospital has authorized to participate in the patient's treatment and the right to refuse treatment, examination and/or observation by any personnel;

(18) refuse to participate in research and human experimentation in accordance with Federal and State law;

(19) examine and receive an explanation of his/her bill, regardless of source of payment;

(20) be informed of the hospital rules and regulations that apply to a patient's conduct;

(21) be admitted to a nonsmoking area;

(22) register complaints and recommend changes in policies and services to the facility's staff, the governing authority and the New York State

Department of Health without fear of reprisal;

(23) express complaints about the care and services provided and to have the hospital investigate such complaints. The hospital shall provide the patient or his/her designee with a written response if requested by the patient indicating the findings of the investigation. The hospital shall notify the patient or his/her designee that if the patient is not satisfied with the hospital's oral or written response, the patient may complain to the New York State Department of Health's Office of Health Systems Management. The hospital shall provide the telephone number of the local area office of the Health Department to the patient;

(24) obtain access to his/her medical record pursuant to the provisions of Part 50 of this Title. The hospital may impose reasonable charges for all copies of medical records provided to patients, not to exceed costs incurred by the hospital. A patient shall not be denied a copy of his/her medical record solely because of inability to pay; and

(25) receive supportive services to meet the changing care needs of the patient and the patient's family/representative provided by qualified individuals who collectively have expertise in assessing the special needs of hospital patients and their families.

(c) *Patients' Bill of Rights.* For purposes of subdivision (a) of this section, the hospital shall utilize the following Patients' Bill of Rights:

Patients' Bill of Rights

As a patient in a hospital in New York State, you have the right, consistent with law, to:

(1) Understand and use these rights. If for any reason you do not understand or you need help, the hospital must provide assistance, including an interpreter.

(2) Receive treatment without discrimination as to race, color, religion, sex, national origin, disability, sexual orientation, age, or source of payment.

(3) Receive considerate and respectful care in a clean and safe environment free of unnecessary restraints.

(4) Receive emergency care if you need it.

(5) Be informed of the name and position of the doctor who will be in charge of your care in the hospital.

(6) Know the names, positions, and functions of any hospital staff involved in your care and refuse their treatment, examination or observation.

(7) A no smoking room.

(8) Receive complete information about your diagnosis, treatment and prognosis.

(9) Receive all the information that you need to give informed consent for any proposed procedure or treatment. This information shall include the possible risks and benefits of the procedure or treatment.

(10) Receive all the information you need to give informed consent for an order not to resuscitate. You also have the right to designate an individual to give this consent for you if you are too ill to do so. If you would like additional information, please ask for a copy of the pamphlet. *Do Not Resuscitate Orders — A Guide for Patients and Families.*

(11) Refuse treatment and be told what effect this may have on your health.

(12) Refuse to take part in research. In deciding whether or not to participate, you have the right to a full explanation.

(13) Privacy while in the hospital and confidentiality of all information and records regarding your care.

(14) Participate in all decisions about your treatment and discharge from the hospital. The hospital must provide you with a written discharge plan and written description of how you can appeal your discharge.

(15) Review your medical record without charge and obtain a copy of your medical record for which the hospital can charge a reasonable fee. You cannot be denied a copy solely because you cannot afford to pay.

(16) Receive an itemized bill and explanation of all charges.

(17) Complain without fear of reprisals about the care and services you are receiving and to have the hospital respond to you and if you request it, a written response. If you are not satisfied with the hospital's response, you can complain to the New York State Health Department. The hospital must provide you with the Health Department telephone number.

(18) Authorize those family members and other adults who will be given priority to visit consistent with your ability to receive visitors.

(19) Make known your wishes in regard to anatomical gifts. You may document your wishes in your health care proxy or on a donor card, available from the hospital.

Historical Note: Sec. filed July 25, 1977; repealed, new filed: Dec. 9, 1985; Aug. 11, 1988; amds. filed: Dec. 9, 1988; April 2, 1996; Aug. 28, 2006 eff. Sept. 13, 2006. Amended (a)(7); added (e)(18)-(19); Amended (b)(2) and (c)(2) Dec. 7, 2010, eff. Dec. 22, 2010.

TITLE VI OF THE 1964 CIVIL RIGHTS ACT

42 U.S.C §§ 2000d - 2000d-7

TITLE 42 - The Public Health and Welfare

SUBCHAPTER V - FEDERALLY ASSISTED PROGRAMS

(Source: http://www.justice.gov/crt/about/cor/coord/titlevistat.php)

CROSS REFERENCE
Age discrimination in employment, see section 621 et seq. of title 29, Labor.
Age discrimination in federally assisted programs, see section 6101 et seq. of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS
This subchapter is referred to in sections 290cc-34, 300w-7, 300x- 7, 708, 1437l, 1988 , 2000d-6, 2000d-7, 2000h, 3608, 3608a, 4621, 5057, 5309, 5891, 6709, 6870, 8625, 9906, 10406, of this title; title 15 sections 719o, 775, 3151; title 20 sections 1231e, 1232i, 1717, 3022, 3291; title 23 sections 117, 324; title 29 sections 794a, 1577; title 40 section 476; title 43 section 1863; title 49 section 306; title 49 App. sections 1604, 1615, 2208, 2219.

Sec. 2000d. Prohibition against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color, or national origin

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(Pub. L. 88-352, title VI, Sec. 601, July 2, 1964, 78 Stat. 252.)

COORDINATION OF IMPLEMENTATION AND ENFORCEMENT OF PROVISIONS
For provisions relating to the coordination of implementation and enforcement of the provisions of this subchapter by the Attorney General, see section 1-201 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note under section 2000d-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in section 2000d-1 of this title; title 39 section 410.

Sec. 2000d-1. Federal authority and financial assistance to programs or activities by way of grant, loan, or contract other than contract of insurance or guaranty; rules and regulations; approval by President; compliance with requirements; reports to Congressional committees; effective date of administrative action

Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected

(1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or

(2) by any other means authorized by law:

Provided, however, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

(Pub. L. 88-352, title VI, Sec. 602, July 2, 1964, 78 Stat. 252.)

DELEGATION OF FUNCTION
Function of the President relating to approval of rules, regulations, and orders of general applicability under this section, delegated to the Attorney General, see section 1-101 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note below.

EQUAL OPPORTUNITY IN FEDERAL EMPLOYMENT
Nondiscrimination in government employment and in employment by government contractors and subcontractors, see Ex. Ord. No. 11246, eff. Sept. 24, 1965, 30 F.R. 12319, and Ex. Ord. No. 11478, eff. Aug. 8, 1969, 34 F.R. 12985, set out as notes under section 2000e of this title.

EXECUTIVE ORDER NO. 11247
Ex. Ord. No. 11247, eff. Sept. 24, 1965, 30 F.R. 12327, which related to the enforcement of coordination of nondiscrimination in federally assisted programs, was superseded by Ex. Ord. No. 11764, eff. Jan. 21, 1974, 39 F.R. 2575, formerly set out as a note below.

EXECUTIVE ORDER NO. 11764
Ex. Ord. No. 11764, Jan. 21, 1974, 39 F.R. 2575, which related to coordination of enforcement of the provisions of this subchapter, was revoked by section 1-501 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R.

72996, set out as a note below.

EX. ORD. NO. 12250. LEADERSHIP AND COORDINATION OF IMPLEMENTATION AND ENFORCEMENT OF NONDISCRIMINATION LAWS
[Body of Executive Order No. 12250]

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 2000d-2, 2000d-5, 5057, 9821, 9849, 10406 of this title; title 39 section 410.

Sec. 2000d-2. Judicial review; administrative procedure provisions

Any department or agency action taken pursuant to section 2000d-1 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 2000d-1 of this title, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that chapter.

(Pub. L. 88-352, title VI, Sec. 603, July 2, 1964, 78 Stat. 253.)

CODIFICATION
"Chapter 7 of title 5" and "that chapter" were substituted in text for "section 10 of the Administrative Procedure Act" and "that section", respectively, on authority of Pub. L. 89-554, Sec. 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Prior to the enactment of Title 5, section 10 of the Administrative Procedure Act was classified to section 1009 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 2930c, 2971c, 2985g, 5057, 9821, 9849, 10406 of this title; title 39 section 410.

Sec. 2000d-3. Construction of provisions not to authorize administrative action with respect to employment practices except where primary objective of Federal financial assistance is to provide employment

Nothing contained in this subchapter shall be construed to authorize action under this subchapter by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

(Pub. L. 88-352, title VI, Sec. 604, July 2, 1964, 78 Stat. 253.)

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in title 39 section 410.

Sec. 2000d-4. Federal authority and financial assistance to programs or activities by way of contract of insurance or guaranty

Nothing in this subchapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

(Pub. L. 88-352, title VI, Sec. 605, July 2, 1964, 78 Stat. 253.)

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in title 39 section 410.

Sec. 2000d-4a. "Program or activity" and "program" defined

For the purposes of this subchapter, the term "program or activity" and the term "program" mean all of the operations of -

(1)
(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)
(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

(3)
(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship -

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social

services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance.

(Pub. L. 88-352, title VI, Sec. 606, as added Pub. L. 100-259, Sec. 6, Mar. 22, 1988, 102 Stat. 31.)

REFERENCES IN TEXT
Section 198(a)(10) of the Elementary and Secondary Education Act of 1965, referred to in par. (2)(B), is section 198 of Pub. L. 89-10, title I, as added by Pub. L. 95-561, title I, Sec. 101(a), Nov. 1, 1978, 92 Stat. 2198, which was classified to section 2854 of Title 20, Education, prior to the complete revision of Pub. L. 89-10 by Pub. L. 100-297, Apr. 28, 1988, 102 Stat. 140. For definitions, see section 2891 of Title 20.

EXCLUSION FROM COVERAGE
This section not to be construed to extend application of Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.] to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see section 7 of Pub. L. 100-259, set out as a Construction note under section 1687 of Title 20, Education.

ABORTION NEUTRALITY
This section not to be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal funds to perform or pay for an abortion, see section 8 of Pub. L. 100-259, set out as a note under section 1688 of Title 20, Education.

Sec. 2000d-5. Prohibited deferral of action on applications by local educational agencies seeking Federal funds for alleged noncompliance with Civil Rights Act

The Secretary of Education shall not defer action or order action deferred on any application by a local educational agency for funds authorized to be appropriated by this Act, by the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2701 et seq.], by the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [20 U.S.C. 236 et seq.], by the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) [20 U.S.C. 631 et seq.], or by the Cooperative Research Act [20 U.S.C. 331 et seq.], on the basis of alleged noncompliance with the provisions of this subchapter for more than sixty days after notice is given to such local agency of such deferral unless such local agency is given the opportunity for a hearing as provided in section 2000d-1 of this title, such hearing to be held within sixty days of such notice, unless the time for such hearing is extended by mutual consent of such local agency and the Secretary, and such deferral shall not continue for more than thirty days after the close of any such hearing unless there has been an express finding on the record of such hearing that such local educational agency has failed to comply with the provisions of this subchapter:

Provided, That, for the purpose of determining whether a local educational agency is in compliance with this subchapter, compliance by such agency with a final order or judgment of a Federal court for the desegregation of the school or school system operated by such agency shall be deemed to be compliance with this subchapter, insofar as the matters covered in the order or judgment are concerned.

(Pub. L. 89-750, title I, Sec. 182, Nov. 3, 1966, 80 Stat. 1209; Pub. L. 90-247, title I, Sec. 112, Jan. 2, 1968, 81 Stat. 787; Pub. L. 96-88, title III, Sec. 301(a)(1), title V, Sec. 507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT
This Act, referred to in text, is Pub. L. 89-750, Nov. 3, 1966, 80 Stat. 1191, as amended, known as the Elementary and Secondary Education Amendments of 1966. For complete classification of that Act to the Code, see Short Title of 1966 Amendment note set out under section 2701 of Title 20, Education, and Tables.

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 100-297, Apr. 28, 1988, 102 Stat. 140, which is classified generally to chapter 47 (Sec. 2701 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 20 and Tables.

Act of September 30, 1950, referred to in text, is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, popularly known as the Educational Agencies Financial Aid Act, which is classified generally to chapter 13 (Sec. 236 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 236 of Title 20 and Tables.

Act of September 23, 1950, referred to in text, is act Sept. 23, 1950, ch. 995, as amended generally by Aug. 12, 1958, Pub. L. 85-620, title I, 72 Stat. 548, which is classified generally to chapter 19 (Sec. 631 et seq.) of Title 20. For complete classification of this Act to the Code, see Tables.

The Cooperative Research Act, referred to in text, is act July 26, 1954, ch. 576, 68 Stat. 533, which was classified generally to chapter 15 (Sec. 331 et seq.) of Title 20, and terminated on July 1, 1975, under provisions of section 402(c)(1) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 544. See section 1851 et seq. of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION
Section was enacted as part of the Elementary and Secondary Education Amendments of 1966, and not as part of the Civil Rights Act of 1964, title VI of which comprises this subchapter.

AMENDMENTS
1968 - Pub. L. 90-247 inserted proviso.

EFFECTIVE DATE
Section 191 of Pub. L. 89-750 provided that: "The provisions of this title [enacting this section and sections 241m, 871 to 880, and 886 of Title 20, Education, amending sections 241b, 241c, 241e, 241f, 241g, 241h, 241j, 241k, 241l, 244, 331a, 332a, 332b, 821, 822, 823, 841, 842, 843, 844, 861, 862, 863, 864, 883, and 884 of Title 20, repealing section 241d of Title 20, and enacting provisions set out as notes under sections 241a, 241b, and 241c of Title 20] shall be effective with respect to fiscal years beginning

after June 30, 1966, except as specifically provided otherwise."

TRANSFER OF FUNCTIONS
"Secretary of Education" and "Secretary" substituted in text for "Commissioner of Education" and "Commissioner", respectively, pursuant to sections 301(a)(1) and 507 of Pub. L. 96-88, which are classified to sections 3441(a)(1) and 3507 of Title 20, Education, and which transferred all functions of Commissioner of Education of Department of Health, Education, and Welfare to Secretary of Education.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in section 2000d-6 of this title.

Sec. 2000d-6. Policy of United States as to application of nondiscrimination provisions in schools of local educational agencies

(a) Declaration of uniform policy

It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] and section 182 of the Elementary and Secondary Education Amendments of 1966 [42 U.S.C. 2000d-5] dealing with conditions of segregation by race, whether de jure or de facto, in the schools of the local educational agencies of any State shall be applied uniformly in all regions of the United States whatever the origin or cause of such segregation.

(b) Nature of uniformity

Such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

(c) Prohibition of construction for diminution of obligation for enforcement or compliance with nondiscrimination requirements

Nothing in this section shall be construed to diminish the obligation of responsible officials to enforce or comply with such guidelines and criteria in order to eliminate discrimination in federally assisted programs and activities as required by title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.].

(d) Additional funds

It is the sense of the Congress that the Department of Justice and the Secretary of Education should request such additional funds as may be necessary to apply the policy set forth in this section throughout the United States.

(Pub. L. 91-230, Sec. 2, Apr. 13, 1970, 84 Stat. 121; Pub. L. 96-88, title III, Sec. 301, title V, Sec. 507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsecs. (a) and (c), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to this subchapter (Sec. 2000d et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

CODIFICATION
Section was enacted as part of the Elementary and Secondary Education Amendments of 1969, and not as part of the Civil Rights Act of 1964, title VI of which comprises this subchapter.

TRANSFER OF FUNCTIONS
"Secretary of Education" substituted for "Department of Health, Education, and Welfare" in subsec. (d) pursuant to sections 301 and 507 of Pub. L. 96-88, which are classified to sections 3441 and 3507 of Title 20, Education, and which transferred functions and offices (relating to education) of Department and Secretary of Health, Education, and Welfare to Secretary of Education.

Sec. 2000d-7. Civil rights remedies equalization

(a) General provision

(1) A State shall not be immune under the Eleventh Amendment of the Constitution of the United States from suit in Federal court for a violation of section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], or the provisions of any other Federal statute prohibiting discrimination by recipients of Federal financial assistance.

(2) In a suit against a State for a violation of a statute referred to in paragraph (1), remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public or private entity other than a State.

(b) Effective date

The provisions of subsection (a) of this section shall take effect with respect to violations that occur in whole or in part after October 21, 1986.

(Pub. L. 99-506, title X, Sec. 1003, Oct. 21, 1986, 100 Stat. 1845.)

REFERENCES IN TEXT
The Education Amendments of 1972, referred to in subsec. (a)(1), is Pub. L. 92-318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Education Amendments of 1972 is classified principally to chapter 38 (Sec. 1681 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of Title 20 and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (a)(1), is title III of Pub. L. 94-135, Nov. 28,

1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (Sec. 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(1), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to this subchapter (Sec. 2000d et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

CODIFICATION
Section was enacted as part of the Rehabilitation Act Amendments of 1986, and not as part of the Civil Rights Act of 1964, title VI of which comprises this subchapter.

Appendix D

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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YANAHIT PADILLA TORRES, ARLET MACARENO, WENDY GARCIA, LINA CARRION, SILVIA SORIANO, and the VIOLENCE INTERVENTION PROGRAM,

Plaintiffs,

13 CV 00076 (MKB) (RER)

-against-

AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

THE CITY OF NEW YORK, MAYOR MICHAEL BLOOMBERG, RAYMOND W. KELLY, COMMISSIONER OF THE NEW YORK CITY POLICE DEPARTMENT, in his individual and official capacities, NEW YORK CITY POLICE OFFICER VINCENZO TRADOLSE, in his individual capacity; NEW YORK CITY POLICE OFFICER CHRISTOPHER FURDA, in his individual capacity, NEW YORK CITY POLICE OFFICERS JOHN/JANE DOES #1 THROUGH #6, in their individual capacities,

Defendants.

----------x

Plaintiffs YANAHIT PADILLA TORRES, ARLET MACARENO, WENDY GARCIA, LINA CARRION, SILVIA SORIANO, and the VIOLENCE INTERVENTION PROGRAM respectfully allege as follows:

PRELIMINARY STATEMENT

1. This civil rights action, brought on behalf of five limited English proficient ("LEP") New Yorkers and the Violence Intervention Program ("VIP"), an organization that serves LEP domestic violence victims, challenges the New York City Police Department's

("NYPD") discriminatory practice of denying interpreters to LEP individuals, which deprives them of access to NYPD services. This practice is in stark contrast to the NYPD's stated policy that requires NYPD officers and other employees "to provide free language assistance" to LEP individuals.

2. More than four and a half years after Mayor Michael Bloomberg issued New York City's Executive Order 120 ("EO 120"), which requires city agencies to provide interpretation services to LEP individuals; nearly four years after the NYPD first implemented its NYPD Language Access Plan ("LAP Plan"); and more than two years after a November 2010 United States Department of Justice compliance review found the NYPD "not fully in compliance" with the requirements of federal law, including Title VI and the Safe Streets Act, regarding their provision of language services to LEP New Yorkers, the NYPD continues to discriminate against LEP crime victims, victims of domestic violence and others who have difficulty communicating in English.

3. The NYPD's denial of interpreter services has deprived Plaintiffs of their right to report crimes, to protect themselves from dangerous abusers, and to communicate effectively with the police in a wide range of circumstances.

4. Not only does the NYPD fail to provide language assistance, it also degrades, ridicules and otherwise mistreats LEP individuals who request interpreter services, actively demeaning them for their lack of English proficiency. In some instances, LEP victims of domestic violence are arrested because the NYPD relies solely on the reports of their English proficient abusers.

5. Defendants Mayor Michael R. Bloomberg and Police Commissioner Raymond W. Kelly are responsible for overseeing and executing the NYPD's policies. By

failing to adequately intervene or perform their professional duties, Defendants Mayor Michael R. Bloomberg, Police Commissioner Raymond W. Kelly, the City of New York, Police Officer Vincenzo Tradolse, Police Officer Christopher Furda and Police Officers John/Jane Does #1-6, are responsible for harm caused to LEP individuals, including the Plaintiffs, in violation of Title VI of the Civil Rights Act of 1964, the Safe Streets Act, the Equal Protection Clause and the First and Fourth Amendments of the U.S. Constitution, the New York City Human Rights Law, and the Constitution and laws of the State of New York.

PARTIES

Plaintiffs

6. Plaintiff YANAHIT PADILLA TORRES is a resident of Brooklyn, New York.

7. Plaintiff ARLET MACARENO is a resident of Staten Island, New York.

8. Plaintiff WENDY GARCIA is a resident of Queens, New York.

9. Plaintiff LINA CARRION is a resident of Brooklyn, New York.

10. Plaintiff SILVIA SORIANO is a resident of Staten Island, New York.

11. Plaintiff VIOLENCE INTERVENTION PROGRAM ("VIP") is a nationally recognized Latina organization dedicated to ending violence in the lives of women. VIP delivers a full range of culturally competent services that enable women to become free of violence and achieve their full potential. VIP has its main offices in New York, New York.

Defendants

12. Defendant THE CITY OF NEW YORK is a municipal corporation duly incorporated and existing pursuant to the laws of the State of New York. It is authorized under the laws of the State of New York to maintain a Police Department, the NYPD, which acts as its agent in the area of law enforcement and for which it is ultimately responsible.

13. Defendant MAYOR MICHAEL BLOOMBERG is and was, at all times relevant herein, the Mayor of the City of New York with supervisory authority over all City agencies, including the NYPD. He is sued in his official capacity.

14. Defendant RAYMOND W. KELLY is and was, at all times relevant herein, the Police Commissioner for the City of New York, with supervisory authority over all officers and operations of the NYPD, a municipal agency of the City. Mr. Kelly is and was responsible for hiring, screening, training, recruiting and managing all NYPD officers, including the Defendants named herein. He is also responsible for the policies, practices and customs of the NYPD. He is sued in his official capacity. The NYPD has its principal offices at One Police Plaza, New York, 10038.

15. Defendants VINCENZO TRADOLSE, CHRISTOPHER FURDA and JOHN/JANE DOES #1-6 (the "Individual Officer Defendants"), are, and/or were, at all times relevant herein, officers, employees and agents of the NYPD. They are sued in their individual capacities.

16. Mayor Bloomberg, Commissioner Kelly, and the Individual Officer Defendants have acted under color of state law in the course and scope of their duties as agents, employees and officers of the City and/or the NYPD in engaging in the conduct described herein. At all times relevant herein, Defendants have acted for and on behalf of the City and/or

the NYPD with the power and authority vested in them as officers, agents and employees of the City and/or the NYPD.

JURISDICTION

17. This court has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. §§ 1331 and 1343(a), as this action seeks redress for the violation of Plaintiffs' constitutional and civil rights.

18. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202 and Rule 57 of the Federal Rules of Civil Procedure.

19. Plaintiffs further invoke this court's supplemental jurisdiction, pursuant to 28 U.S.C. § 1367(a), over any and all related state law claims.

20. This court has personal jurisdiction over all defendants as they are domiciled in New York, among other bases of personal jurisdiction.

VENUE

21. Venue is proper in this Court pursuant to 28 U.S.C.§ 1391.

JURY DEMAND

22. Plaintiffs demand trial by jury in this action on each and every one of their claims.

STATUTORY AND REGULATORY SCHEME

23. Title VI of the Civil Rights Act of 1964 states: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving

federal financial assistance." Civil Rights Act of 1964, Title VI, 42 U.S.C. § 2000(d). The denial of meaningful access to services for LEP individuals is considered national origin discrimination under Title VI.

24. The Safe Streets Act, 42 U.S.C. § 3789d *et seq*., and its implementing regulations, codified at 28 C.F.R. § 42.201 *et seq*., prohibit discrimination, *inter alia*, on the basis of national origin by programs funded in whole or in part from funds made available under 42 U.S.C. Chapter 46. 42 U.S.C. § 3789d(c)(4).

25. The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution guarantees equal rights and equal protection under the laws. Violations may be remedied pursuant to 42 U.S.C. § 1983.

26. The Equal Protection Clause of the New York State Constitution similarly protects individuals from discrimination by the state or by any person acting under color of state law. N.Y. Const., Art.1 § 11.

27. The Fourth Amendment to the U.S. Constitution protects individuals from unreasonable searches and seizures and the unreasonable use of excessive force by individuals acting under color of state law. Violations may be remedied pursuant to 42 U.S.C. § 1983.

28. The First Amendment to the U.S. Constitution guarantees individuals the right to petition the Government for a redress of grievances. Violations may be remedied pursuant to 42 U.S.C. § 1983.

29. Article I, §9 of the New York State Constitution affords individuals the right to petition the Government for a redress of grievances.

30. The New York City Human Rights Law ("NYCHRL"), enacted in 1991, prohibits discrimination based on national origin in public accommodations. NYC Code § 8-

107. The Law was extensively amended and strengthened in 2005 by the passage of the Local Civil Rights Restoration Act, Local Law No. 85 of 2005.

31. The NYCHRL provides:

> It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation because of the . . . national origin . . .of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, or, directly or indirectly, to make any declaration, publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place or provider shall be refused, withheld from or denied to any person on account of . . national origin . . . .

NYC Code§ 8-107(4)(a).

32. Section 8-401 of the NYCHRL includes the following statement:

> [t]he council finds . . .that the social and moral consequences of systemic discrimination are . . .injurious to the city in that systemic discrimination polarizes the city's communities, demoralizes its inhabitants and creates disrespect for the law, thereby frustrating the city's efforts to foster mutual respect and tolerance among its inhabitants and to promote a safe and secure environment.

33. NYCHRL § 8-130 provides that:

> The provisions of this title shall be construed liberally for the accomplishment of the uniquely broad and remedial purposes thereof, regardless of whether federal or New York State civil and human rights laws, including those laws with provisions comparably-worded to provisions of this title have been so construed.

34. New York State common law protects individuals from false arrest and false imprisonment.

STATEMENT OF FACTS

NYPD's Language Access Policy and Practice

35. Nearly 25 percent of New York City residents over the age of five are limited English proficient (LEP), and require language assistance in order to access the services of the NYPD; 1.2 million of them are Spanish-speaking individuals. LEP New Yorkers are disproportionately foreign-born; among New York City residents over the age of five, approximately fifty percent of foreign-born residents are LEP, in contrast to only 6.5 percent of U.S.-born residents.

36. On July 22, 2008, Mayor Bloomberg issued Executive Order 120 ("EO 120"), "Citywide Policy on Language Access to Ensure the Effective Delivery of City Services," which requires each City agency that provides direct public services, including the NYPD, to "ensure meaningful access to such services by taking reasonable steps to develop and implement agency-specific language assistance plans regarding LEP persons." The Order further requires that each city agency designate a Language Access Coordinator, develop an appropriate language access policy and implementation plan, and provide language services based on at least the top six languages spoken by the population of the City.

37. In April 2009, the NYPD published its Language Access Plan (the "Plan"). The Plan requires NYPD officers responding to LEP individuals to provide interpretation services as necessary either via the Operations Unit, using NYPD employees to interpret, or through the use of a contracted interpreter via Language Line (a telephonic interpreting company). The Plan states that NYPD's policy is to "take reasonable steps to provide timely and meaningful access for LEP persons to the services and benefits that the Department provides to

the degree practicable." The Plan further requires that "[w]hen performing law enforcement functions, members provide free language assistance to LEP individuals whom they encounter when necessary or whenever an LEP person requests language assistance services."

38. The United States Department of Justice ("DOJ") subsequently reviewed the Plan as implemented by the NYPD and found that the NYPD failed to comply with federal law, including Title VI of the Civil Rights Act of 1964 and the Safe Streets Act. The DOJ's compliance review consisted of an in-depth administrative analysis of the NYPD's policies and procedures with respect to LEP individuals. On November 8, 2010, the DOJ issued a 43-page report, addressed to Defendant Raymond Kelly, outlining various problem areas and shortcomings in the Plan and its implementation (the "Compliance Review"). On June 14, 2012, the NYPD released a revised Plan (the "Revised Plan").

39. In January and February of 2012, Plaintiff's counsel contacted the NYPD's legal department, by telephone and in writing, to discuss the language barriers faced by LEP clients, specifically as they relate to domestic violence victims. The NYPD declined to meet with counsel.

40. On March 28, 2012, Plaintiff's counsel received a written response from the NYPD outlining a new program to allow police officers to access telephonic interpreters from any available telephone at any time of day. According to the letter, this program was initiated as a pilot program in Patrol Borough Queens South in July of 2011 and rolled out citywide in February 2012.

41. As set forth below, despite its adoption of language access policies, and despite being notified by the DOJ of deficiencies in its policies and practices, the NYPD has continued to routinely deny LEP individuals access to police protection and to the broader legal

system. Indeed, NYPD personnel not only fail to provide language services, but on many occasions actively mock and humiliate LEP individuals who request such services, and retaliate against them for making such requests.

42. Victims of domestic violence and other crimes, such as the Plaintiffs and clients of Plaintiff Violence Intervention Program, are particularly vulnerable to NYPD's unlawful practices, which leave them unable to communicate with police in emergency situations, to get the protection they need, to file police reports, and to obtain medical assistance.

43. Moreover, as the experiences of the Plaintiffs illustrate, NYPD's failure to provide language assistance to LEP domestic violence complainants frequently results in their wrongful arrest or with threats to arrest them, rather than the arrest of their abusers.

Plaintiff Yanahit Padilla Torres

44. Yanahit Padilla Torres is a twenty-six year old Spanish-speaking woman from Mexico.

45. Ms. Padilla Torres speaks very limited English. She can understand some words but has difficulty with even the most basic phrases.

46. Ms. Padilla Torres lives in Brooklyn with her four year-old son Anthony.

47. From 2007 until 2011, Ms. Padilla Torres lived with her boyfriend, Anthony Rovira, who was physically and verbally abusive to her. Anthony set up video cameras in their apartment to monitor her activities.

48. On November 15, 2011, Mr. Rovira grabbed Ms. Padilla Torres by the feet and pulled her off the bed and began beating her. Ms. Padilla Torres pleaded with him to stop but he did not. She screamed for help and her son came into the room. Mr. Rovira stopped

hitting her and left the room.

49. Ms. Padilla Torres then called 911. She asked for someone who spoke Spanish and a Spanish-speaking operator came on the phone. Ms. Padilla Torres told the operator that her boyfriend was beating her. She asked if they would send an officer who spoke Spanish.

50. Two police officers arrived shortly afterwards, including Officer Christopher Furda.

51. When the officers arrived, they approached Mr. Rovira, who is proficient in English, and began to speak with him. They did not speak with Ms. Padilla Torres even though she had called 911. Ms. Padilla Torres approached the officers while they were speaking with Mr. Rovira and tried to explain what had happened in Spanish. Officer Furda said something to the effect of, "we don't speak Spanish."

52. The officers continued to speak with Mr. Rovira, ignoring Ms. Padilla Torres, who continued to ask for help in Spanish.

53. Ms. Padilla Torres saw Mr. Rovira and the two officers smoking cigarettes together and talking and felt she was not going to get any help. At this point, she called 911 again and asked them to send a Spanish-speaking officer to the scene. Ms. Padilla Torres told the operator that her boyfriend had beaten her and that she could not communicate with the officers who responded. The operator told her she would send a Spanish-speaking officer.

54. In a little while, another patrol car arrived with an officer who spoke Spanish. Ms. Padilla Torres showed him the bruises on her arm and told him, in Spanish, that Mr. Rovira had hit her.

55. The Spanish-speaking officer said that Mr. Rovira also had marks on him, and

that if she wanted to make a police report they would both be arrested and a judge would ultimately decide what happened. Ms. Padilla Torres indicated that she still wanted to make the report.

56. Officer Furda spoke with this officer, and then the Spanish-speaking officer told Ms. Padilla Torres that he needed to leave but that the other officers would take her report.

57. Ms. Padilla Torres' cousin, Janette Hernandez, arrived at this time. Ms. Padilla Torres had called her and asked her to come to watch her son.

58. Ms. Padilla Torres tried to ask the officers for their names and identification numbers in English, but they ignored her and refused to speak to her. They continued to speak only to Mr. Rovira.

59. Ms. Padilla Torres called 911 for a third time, this time asking for a police officer with a higher rank because the officers who responded were not assisting her.

60. Officer Furda told Ms. Hernandez in English that Ms. Padilla Torres should make a report stating that Mr. Rovira had not hit her because it would be easier. Ms. Hernandez responded that Ms. Padilla Torres would never do that since Mr. Rovira had beaten her.

61. A third patrol car then arrived. Officer Furda called Ms. Padilla Torres over to him, put her in handcuffs and put her in the patrol car. She saw that Mr. Rovira was also put in a patrol car but without handcuffs.

62. Shortly thereafter, around 3 a.m., Ms. Padilla Torres arrived at the 72nd precinct in Brooklyn. She was taken to a cell. She was given a piece of paper but could not understand what was written on it.

63. Since the officers had not explained what was happening, Ms. Padilla Torres was scared, worried about her son, and afraid that she was being incarcerated for a long time.

64. Ms. Padilla Torres spent the night in the cell. In the morning, around 8:00 a.m., she was taken to another location where she was photographed. While a woman was patting her down, she touched Ms. Padilla Torres' arm where she had a bruise from the beating. It was very painful for Ms. Padilla Torres and the woman looked at the bruise and suggested she be taken to a hospital for treatment. This woman took Ms. Padilla Torres over to a Spanish-speaking employee.

65. This employee examined the bruises and called over a supervisor who looked at the bruises and said something to the effect of, "this is domestic violence." Ms. Padilla Torres was then taken in an ambulance to Methodist Hospital by Officer Furda.

66. Officer Furda handcuffed Ms. Padilla Torres to the bed in the hospital, and remained with her the whole time she was in the hospital, even accompanying her to the bathroom. After she received treatment for her injuries, Officer Furda brought her back to the precinct. When they arrived at the precinct at approximately 6:00 p.m., she was allowed to go home. Ms. Padilla Torres was not provided with any explanation of why she had been arrested and was not told whether there were charges against her.

67. Mr. Rovira obtained an order of protection against Ms. Padilla Torres in Family Court based on her arrest on November 15th. As a result of the protective order against her, Ms. Padilla Torres spent one month and nine days separated from her three year-old son.

68. Mr. Rovira has approached Ms. Padilla Torres on many separate occasions since she obtained an Order of Protection against him on November 21, 2011.

69. Because of the treatment she suffered on the night of November 15th, Ms. Padilla Torres is fearful of calling the police in the future. She does not have confidence that the police would help her and is fearful that they would arrest her again.

70. Within ninety days after the claims alleged by Ms. Padilla Torres arose, a written notice of claim, sworn to by the claimant, was served upon the defendants by personal delivery of the notice, in duplicate, to the Comptroller's Officer at 1 Centre Street, New York, New York.

71. At least thirty days have elapsed since the service of the notice of claim, and adjustment or payment of the claim has been neglected or refused.

72. This action was commenced within one year and ninety days after the happening of the events upon which the claims are based.

Plaintiff Arlet Macareno

73. Arlet Macareno is a twenty-six year old woman from Mexico. Ms. Macareno's primary language is Spanish, and her ability to speak and understand English is very limited.

74. Ms. Macareno lives on Staten Island with her seven year-old son.

75. Until recently, Ms. Macareno lived with her husband, Martin Cruz, in an apartment on the second floor of a house owned by her brother-in-law. The downstairs apartment was inhabited by various relatives of Mr. Cruz, including his twenty-two year-old niece, Angela Guzman.

76. Ms. Macareno's husband has a history of violence, and as a result, Ms. Macareno has been the victim of domestic violence on several occasions.

77. One night in early August, 2012, in the presence of their son, Ms. Macareno's husband pushed her down a flight of stairs. As a result, she was seriously bruised, experienced blurred vision and dizziness.

78. When her niece, Ms. Angela Guzman, arrived home from work and saw Ms. Macareno lying at the bottom of the stairs, she called 911.

79. Shortly afterwards, four police officers and an ambulance arrived. Ms. Macareno tried to explain to the officers what happened using her very limited English, but the officers ignored her, electing instead to speak to her niece, who is proficient in English.

80. Ms. Macareno tried to get the officers' attention and asked for an interpreter by saying "interprete" (interpreter). One officer, Vincenzo Tradolse, turned to her and said, in English, words to the effect of, "I don't care, go to sleep." When Ms. Macareno persisted in trying to explain that her husband had pushed her down the stairs, Officer Tradolse responded in English, telling her to shut up and go to sleep.

81. The officers continued to ignore Ms. Macareno's repeated requests for an interpreter, instead conducting a conversation with her niece.

82. Officer Tradolse told Ms. Macareno, "callate la boca" (shut your mouth) and again said he did not care each time she requested an interpreter. The other officers just stood there watching and laughing.

83. Officer Tradolse then said to her in sum and substance, "if you don't callate la boca, I will arrest you." When Ms. Macarena continued to attempt to get Officer Tradolse's attention, he became angrier with her and then arrested Ms. Macareno.

84. The officers took no action against Ms. Macareno's husband, instead telling him to go upstairs to sleep.

85. The officers arrested Ms. Macareno, who was barefoot, and did not allow her to retrieve her shoes from her apartment.

86. Ms. Macareno was in a lot of pain from the fall and was very scared.

87. There were two officers in the front of the police car, Officer Tradolse and one other. There was another officer in the back next to Ms. Macareno. Since Officer Tradolse had told her to "callate la boca," Ms. Macareno then asked him, in Spanish, if he spoke Spanish. He answered, "oh si, si hablo espanol. Gol! Gol! Mexico! Vamos Mexico! Chicharito!" This means "oh, yeah, I speak Spanish, Goal! Goal! Mexico! Let's go Mexico! (Chicharito is the name of a Mexican soccer player.) The two officers in the front began to laugh and speak in English, and Ms. Macareno could not understand what they were saying.

88. When they arrived at the precinct at around 2 a.m., Officer Tradolse took Ms. Macareno the long way around the car and made her walk through puddles in her bare feet. Inside the precinct, the floor was wet and she slipped. The officers laughed at her. Ms. Macareno asked for a lawyer or for someone who spoke Spanish to assist her.

89. Finally, an officer who spoke Spanish came over to her. Ms. Macareno told him that the other officers were making fun of her. This officer told her that it did not matter and that it would be their word against hers. Ms. Macareno told him that her husband had pushed her down the stairs and that she did not understand why *she* was arrested. He told her that she was arrested for her lack of respect for the police. Ms. Macareno asked him why – was it because she had asked for an interpreter? The officer then walked away.

90. Ms. Macareno attempted to tell the officers and employees at the police station that she was in pain from being pushed down the stairs. However, they failed to provide Ms. Macareno with any medical treatment. Instead, they put her in a cell where she spent the night.

91. The next day, Ms. Macareno was taken to criminal court and charged with Obstruction of Government Administration. Her brother paid for an attorney to represent her,

but the lawyer did not speak Spanish or provide her with an interpreter. Ms. Macareno ultimately pled guilty to disorderly conduct.

92. After she was released, Ms. Macareno and her cousin Nancy, went to the 120th precinct to file a report regarding the domestic violence incident. Her cousin, who speaks English very well, filled out the form in English for Ms. Macareno. Although the officers were aware that Ms. Macareno was a limited English proficient Spanish-speaker, no one at the precinct told her that she could fill out the form in Spanish.

93. A few days later, a detective called Ms. Macareno's cousin Nancy and informed her that Ms. Macareno would be given an Order of Protection and that she should come to the precinct. Ms. Macareno went to the precinct, accompanied by her cousin. A detective came to speak with her but instead of using an interpreter, he just spoke directly to her cousin. Her cousin did not interpret the conversation but spoke directly with the officer. Ms. Macareno did not understand what they were saying. Her cousin explained that she needed to go to court to get the Order of Protection. Ms. Macareno said she felt she had been arrested for asking for an interpreter. When her cousin told the detective this, the detective said that Ms. Macareno had been charged with obstructing the investigation.

94. On August 8, 2012, Ms. Macareno obtained a Temporary Order of Protection against her husband, which is still in effect. A few days later, an officer accompanied Ms. Macareno to her apartment to gather her belongings. The officer who accompanied her did not speak Spanish and did not use an interpreter to speak with her. Her cousin accompanied her as well. While they were at the apartment, her husband's family, her cousin, and the officer had a long argument in English. Ms. Macareno could not understand most of the conversation.

Finally her cousin explained to her that she had a right to stay in the apartment with her son and that her husband had to leave.

95. As she had nowhere else to go, Ms. Macareno decided to stay in the apartment with her son. However, the first day she was in the apartment without her husband, he came to the apartment and refused to leave. Ms. Macareno was scared and left. While she was gone, he changed the locks and she could not re-enter.

96. When Ms. Macareno went with her cousin to the precinct to complain that she had been locked out of her home and that her husband had violated her Order of Protection, the same English-speaking detective who had spoken to her the last time she was at the precinct was there and again failed to use an interpreter to communicate with her. Again, her cousin spoke directly to the detective to explain what happened and Ms. Macareno was not offered any way to communicate with the police herself.

97. As a result of the arrest and the treatment she received from the police, Ms. Macareno feels traumatized. Ms. Macareno feels that if something happened to her, she would not call the police or go to a precinct again because she fears the police and does not believe they would protect her.

Plaintiff Wendy Garcia

98. Wendy Garcia is a thirty-three year-old Spanish-speaker from Guatemala. Her English is very limited.

99. Ms. Garcia lives in Queens with her two sons, ages five and seven.

100. In August, 2012, Ms. Garcia was in an intimate relationship with Alex Moncada.

101. On August 20, 2012, in Ms. Garcia's apartment, Mr. Moncada pushed Ms. Garcia and she fell to the floor. He also slammed a door on her, injuring her elbow and foot.

102. Because Mr. Moncada had been violent with her before, and she did not want the violence to escalate, Ms. Garcia called 911. Ms. Garcia requested a Spanish-speaking operator and was able to explain in Spanish what had happened to her.

103. Shortly afterward, four police officers arrived at Ms. Garcia's building, none of whom spoke Spanish. When Ms. Garcia requested a Spanish speaker, one of the officers told her that there was nobody who could speak Spanish to her. The officer said something to the effect of, "No Spanish, only English." Ms. Garcia then struggled in English to tell the officer that she would not be able to explain what had happened in English.

104. The police officer then asked her in English, "you ok?" and Ms. Garcia responded that she was not ok. Her elbow hurt from the fall and being crushed in the door, but she was not sure of the word for elbow in English.

105. The officer then instructed her to sit in a corner and went over to speak to Mr. Moncada, who speaks English well.

106. Concerned that she would not be able to tell her side of the story, Ms. Garcia called her brother and requested that he translate for her.

107. When she tried to hand the phone to the police officer and to explain that her brother would translate, the police officer said, "no, no" and took the phone away. The officer then threw the phone on the counter.

108. Frustrated and scared, Ms. Garcia began to cry. One of the officers asked her something to the effect of, "why are you crying?" Ms. Garcia again tried to communicate in English that she needed to speak to someone in Spanish. The police officer said something to the

effect of, "no, only English."

109. One of the police officers gave Ms. Garcia a form to fill out with her personal information and room to make a statement. No one told her she could write in Spanish, but she did write a statement in Spanish. No one gave her a copy of this form.

110. After speaking exclusively to Mr. Mocada, the officers wrote a report. Ms. Garcia then heard the officers say something to Mr. Moncada about arresting her. Ms. Garcia understood Mr. Moncada when he said that she should not be arrested because of her children.

111. One of the officers asked Ms. Garcia if she had pushed Mr. Mocada, and she tried to explain what had actually occurred, but was unable to do so due to her limited English. The police officers then completed the report and gave a copy to Mr. Moncada but not to Ms. Garcia.

112. Ms. Garcia tried unsuccessfully to explain to the officers that she wanted Mr. Moncada to leave because he did not reside there. However, the officers never asked Mr. Moncada to leave and never asked Ms. Garcia whether she wanted him to leave.

113. As the police officers were leaving, the one who had spoken to Ms. Garcia previously again spoke to her in English. She understood him to say he was not going to arrest her now but they *would* arrest her if she called 911 again.

114. When the police left, Ms. Garcia felt deceived, frustrated and scared because the police had threatened to arrest her. She felt that if Mr. Moncada became violent again, she would not call the police. Instead of staying in her apartment, where Mr. Moncada remained, Ms. Garcia woke up her son and took him to her mother's house in Brooklyn.

115. On or about August 22, 2012, Ms. Garcia went to the Family Justice Center in Queens and spoke to a counselor from Sanctuary for Families about the events of August 20th.

The counselor called the 102nd Precinct for Ms. Garcia and found out that a report had been filed against Ms. Garcia by Mr. Moncada on the night of August 20th alleging that she hit him.

116. On or about August 23rd, Ms. Garcia went to the 102nd Precinct to get a copy of the report. When she requested a Spanish interpreter, she was told she would have to wait.

117. After waiting for ten minutes, she called a counselor from VIP, where she had been seeking services as a domestic violence victim. Her counselor attempted to call the precinct herself. The counselor then called the supervisors at Borough Patrol Queens South, and requested an interpreter for Ms. Garcia.

118. Rather than call a qualified interpreter, Ms. Garcia heard an officer at the precinct ask around the precinct if anyone spoke Spanish. Ultimately, the officer found someone with limited Spanish who assisted Ms. Garcia. Ms. Garcia said she wanted a copy of the police report but was told that it was not in the system.

119. The officers in the precinct gave Ms. Garcia the number of a police officer she could call for further assistance in Spanish but she felt so awful from the whole experience that she left the precinct without seeking further assistance.

120. Ms. Garcia was frustrated and disheartened that the police repeatedly refused to communicate with her in Spanish when she needed help. As a result of this incident, Ms. Garcia distrusts the police and feels she cannot call upon them because she fears that she will be arrested if she seeks assistance in the future.

Plaintiff Lina Carrion

121. Lina Carrion is a thirty-nine year old woman who was born in Ecuador. Her primary language is Spanish and she speaks very limited English.

122. Ms. Carrion lives in Brooklyn, New York with her ten year-old daughter, Jennifer Pizarro, and Ms. Carrion's two brothers.

123. On August 12, 2012, Ms. Carrion found out that her boyfriend had been sexually abusing her daughter for a period of approximately three months. The next day, Ms. Carrion brought Jennifer to Lutheran Hospital to be examined.

124. Upon arrival at the hospital, Jennifer and Ms. Carrion were interviewed by an English-speaking nurse through an interpreter, and then by a Spanish-speaking social worker.

125. The social worker told Ms. Carrion that she was going to call the police because of the sexual abuse. Ms. Carrion asked her to request a Spanish-speaking officer since her English is very limited.

126. When two English-speaking police officers arrived at the hospital, Ms. Carrion again requested an officer who spoke Spanish. One of the officers made a phone call, but when two additional officers arrived shortly thereafter, neither spoke any Spanish.

127. Ms. Carrion again stated that she needed someone who could speak to her in Spanish, but was told in sum and substance that an interpreter was not needed because her ten-year-old daughter speaks English.

128. Given the intimate nature of the situation and in light of her desire to understand the officers' communication with her young daughter, Ms. Carrion again requested an officer who spoke Spanish.

129. Despite Ms. Carrion's repeated requests for a Spanish-speaking officer, the officers proceeded to interview Jennifer in English for approximately thirty minutes. Ms. Carrion could not understand what was being said. Despite Ms. Carrion's repeated protests, the interview continued without an interpreter.

130. Ms. Carrion was extremely upset that she could not understand the conversation. She complained to the social worker and asked her if *she* could interpret, but the social worker was very busy and said she could not.

131. After a period of time, two additional officers arrived who did not speak Spanish. They helped finalize the police report and had Ms. Carrion's daughter fill in a portion in English.

132. One of the officers asked Ms. Carrion to sign the report. Despite the fact that she was unable to understand what the report said, Ms. Carrion signed it. Neither she nor her daughter was given a copy of the report.

133. The officers' failure to provide Ms. Carrion with an interpreter or Spanish-speaking officer prevented Ms. Carrion from being able to communicate what she knew about the assaults on her daughter to the police officers, provide support to her young daughter during a very sensitive time and to understand the steps the police were taking regarding the abuse.

134. Ms. Carrion felt upset and frustrated, and felt that she was being discriminated against by the police.

Plaintiff Silvia Soriano

135. Sylvia Soriano is a thirty-four year old Spanish speaker from Mexico. Her ability to communicate in and understand English is very limited.

136. Ms. Soriano lives in Staten Island with her husband, Jose Velez, and three of her four children, aged 2, 5, and 15.

137. Ms. Soriano moved to Staten Island from the Bronx in December 2011. Since relocating, her family has received repeated threats and been subjected to multiple acts of

violence by other residents of the New York City Housing Authority ("NYCHA") project where they live. She believes her family is a target of threats because they are Mexican.

138. Ms. Soriano's 18 year-old son, Jose Franco, relocated to Mexico after being beaten up and threatened for being Mexican by residents in the NYCHA project where they live.

139. In mid-August, 2012, Ms. Soriano was in a park near her home with her husband and three children, when approximately fifteen teenagers approached a group of children playing and made a circle around them. The teenagers hit and spat on the children, and one of the teenagers repeatedly threw a basketball at Ms. Soriano's five year-old. Ms. Soriano called 911, explaining in Spanish what was occurring.

140. The teenage perpetrators continued to taunt and threaten Ms. Soriano's children. When she attempted to protect her children, one of the teenagers took out a gun, pointed it at her head, called her a "Fucking Mexican," and instructed her to leave the area. Her husband also heard one of the perpetrators say words to the effect of "this won't end until you leave." They continued to taunt the Soriano family until Ms. Soriano requested that another person in the park take a photograph of them, at which point they ran away. Before they left, the teenager with the gun told Ms. Soriano's daughter that her mother better "get out of his face" or he would kill them.

141. When the police did not respond after about fifteen minutes, Ms. Soriano's husband called 911 again to complain that they were in danger and the police had not arrived. The responding officers, who did not speak Spanish or use interpreters to communicate with Ms. Soriano and her husband, arrived after another ten minutes.

142. Ms. Soriano struggled to tell them that she needed to speak with someone who spoke Spanish. The officer responded to her request saying in sum and substance "this is

America, you have to speak English." When Ms. Soriano's daughter attempted to tell the officers what happened, they instructed Ms. Soriano and her family to return to their home.

143. Then Ms. Soriano became desperate, pointing to the cameras on the building because she thought there would be recordings of the people who had assaulted her family. The officers did not understand what she was trying to communicate and without attempting to understand, began to laugh.

144. Later that day and in the days that followed, the Sorianos were taunted and threatened by the same teenagers.

145. When Ms. Soriano went to the NYCHA office to request a transfer to another housing project because of the threats, she was told that she needed to provide NYCHA with a police report.

146. NYCHA gave Ms. Soriano a crime report form, which she tried to fill out and mailed to the 120th Precinct. A few days later, she went to the precinct to check on it. No one spoke to her in Spanish and they refused her requests for an interpreter, stating in sum and substance that no one at the precinct spoke Spanish.

147. A police officer then offered to speak to Ms. Soriano's daughter in English, and told her that the computers were not working and that they needed to come back another day. He handed her a form and told Ms. Soriano she could fill it out and mail it back.

148. Ms. Soriano did send the form in but it was sent back to her with instructions in English saying that she needed a complaint number and could get that number by calling the precinct.

149. On October 1, 2012, Ms. Soriano returned to the 120th Precinct with her attorney. Her attorney requested an interpreter for Ms. Soriano in order to file a police report.

An officer told her attorney that no one was available who spoke Spanish, and instead asked the attorney if *she* could interpret for Ms. Soriano. When her attorney refused, and pointed to the sign regarding the provision of free interpreter services, the officer sighed and rolled his eyes. After making Ms. Soriano and her attorney wait for approximately fifteen minutes, he eventually found a Spanish-speaking officer who took Ms. Soriano's complaint.

150. On January 5, 2013, a neighbor in Ms. Soriano's apartment building began banging on the walls and door to Ms. Soriano's apartment. When Ms. Soriano's husband opened the door, the man began insulting them in English and saying things to the effect of, "you fucking Mexicans" and "fucking immigrants" and threatening them with violence. Ms. Soriano's fifteen year-old daughter called 911. After twenty-five minutes when no police officers had arrived, she called again. When speaking with the 911 operator, Ms. Soriano's daughter requested that the police send a Spanish-speaking officer to her home because her parents do not speak English well.

151. Approximately five officers arrived at the home and none of them were able to communicate with the Soriano family in Spanish. Ms. Soriano said to one officer, "yo no hablo Ingles" (I don't speak English). The officer responded something to the effect of "no Spanish."

152. Ms. Soriano's fifteen year-old daughter interpreted what the police were saying for her parents. The police said that there was nothing they could do and that the family should make a complaint with the NYCHA housing office. The officers did not offer to file a police report for the family.

153. Because they feared for their safety, on January 7, 2013, Ms. Soriano and her husband returned to the 120th precinct to attempt to file a police report about the ongoing threats

from their neighbors. Ms. Soriano requested assistance in Spanish at the precinct and was told that no one was there who could speak Spanish.

154. Ms. Soriano's husband attempted to communicate with the officers in the precinct in very basic English. He tried to explain that the family was receiving ongoing threats and harassment because they are Mexican. The officers did not take a police report. Ms. Soriano's husband felt he could not explain everything that he wanted to because he was not able to speak to someone in Spanish.

155. In early 2013, Ms. Soriano called 911 at approximately 2:00 a.m. when she found her daughter's boyfriend in her apartment without her permission. Ms. Soriano subsequently sought an Order of Protection against him on behalf of her daughter because he is twenty-four years old and her daughter is fifteen. Additionally, she fears for her daughter's safety with him.

156. When the police responded to her call, Ms. Soriano could not communicate the situation to them because they did not speak Spanish or offer her an interpreter. One of the officers asked Ms. Soriano if she spoke English. When she answered no, the officer said something to the effect of, "then there is nothing we can do." The police officers began to laugh and left the premises.

157. The NYPD officers' failure to provide Ms. Soriano and her husband with an interpreter, both at their home and at the 120th precinct, deprived Ms. Soriano of access to police protection. NYPD's refusal to provide her with assistance from a Spanish-speaking officer or interpreter also prevented her from being able to file reports about various threats against her and her family, and impeded Ms. Soriano's ability to transfer to a safer NYCHA project.

158. As a result of her inability to file the appropriate reports, Ms. Soriano fears for

the lives and safety of her family, feels helpless, and feels she is being discriminated against because of her national origin and because she is unable to speak English.

Plaintiff Violence Intervention Program

159. The Violence Intervention Program, Inc. ("VIP") is a nationally recognized non-profit organization that aims to remedy and to prevent violence against women. VIP delivers a full range of services including on-site counseling, residential accommodations and child care. VIP has offices in Manhattan, the Bronx and Queens.

160. VIP serves approximately 1,400 women per year and annually receives approximately 12,000 hotline calls. The majority of VIP's clients are Spanish-speaking women with limited English proficiency.

161. VIP counselors and advocates regularly interact with LEP domestic violence victims who report experiencing language barriers when attempted to communicate with the NYPD both at the station houses and in the field with officers who respond to 911 calls.

162. VIP clients are regularly told by the NYPD that there is no one who can communicate with them in Spanish and that they must speak English.

163. English speaking police officers often communicate only with their English-speaking abusers of VIP clients and do not speak directly with the LEP victim at all.

164. As a result, many VIP clients, in addition to experiencing fear, frustration and humiliation, are denied vital assistance and are prevented from filing police reports and making statements.

165. As a result of NYPD's failure to provide language access services, VIP counselors and advocates are regularly compelled to spend portions of their work day assisting

LEP clients in communicating with the NYPD. VIP staff members frequently call precincts and/or other NYPD locations to complain about lack of interpreter services, interpret over the phone with the NYPD when the NYPD fails to provide interpreters for their clients, and accompany LEP clients to precincts in order to interpret for them.

166. The NYPD's failure to provide interpretation for LEP individuals imposes a significant and ongoing burden on VIP staff members as they attempt to assist their clients. The constant need to assist LEP clients in communication with the NYPD means that counselors are often unavailable to provide the numerous other services that VIP offers.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION: INTENTIONAL DISCRIMINATION UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C § 2000(d), *et seq*.

167. Plaintiffs repeat and re-allege the foregoing paragraphs as if fully set forth herein.

168. The NYPD is a municipal agency in receipt of funding from the federal government.

169. Discrimination based on race and national origin, is prohibited by recipients of federal financial assistance under 42 U.S.C. § 2000(d), *et seq.*

170. Defendants, through their policy, custom or practice, intentionally discriminated against Plaintiffs based on their national origins and limited English proficient status in violation of Title VI of the Civil Rights Act and its implementing regulations.

171. As a direct and proximate result of Defendants' actions, Plaintiffs have suffered injuries and damages and have been deprived of their rights under the civil rights laws.

SECOND CAUSE OF ACTION:
VIOLATION OF THE SAFE STREETS ACT, 42 U.S.C. § 3789d

172. Plaintiffs repeat and re-allege the foregoing paragraphs as if fully set forth herein.

173. The Safe Streets Act, 42 U.S.C. § 3789d, and its implementing regulations prohibit discrimination, *inter alia*, on the basis of national origin by programs funded in whole or in part from funds made available under 42 U.S.C. § 3789d(c)(4). The regulations were promulgated by the United States Department of Justice and codified at 28 C.F.R. § 42.203.

174. The NYPD receives federal funding that subjects it to the requirements of the Safe Streets Act.

175. Defendants, through their policy, custom or practice, intentionally discriminated against Plaintiffs based on their national origins and limited English proficient status in violation of the Safe Streets Act and its implementing regulations.

176. As a direct and proximate result of the above-mentioned acts, Plaintiffs have suffered injuries and have been deprived of their rights under the Safe Streets Act and its implementing regulations.

THIRD CAUSE OF ACTION: DISCRIMINATION
UNDER THE EQUAL PROTECTION CLAUSE OF THE U.S CONSTITUTION

177. Plaintiffs repeat and re-allege the foregoing paragraphs as if fully set forth herein.

178. Defendants denied Plaintiffs equal access to the services and protections of the NYPD based on their national origins. Such discrimination violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

179. Defendants acted under color of state law to deprive the Plaintiffs of their Fourteenth Amendment rights. A cause of action is created by 42 U.S.C. § 1983.

180. As a direct and proximate result of the above-mentioned acts, Plaintiffs have suffered injuries and damages.

FOURTH CAUSE OF ACTION: DISCRIMINATION UNDER THE EQUAL PROTECTION CLAUSE OF THE NEW YORK STATE CONSTITUTION

181. Plaintiffs repeat and re-allege the foregoing paragraphs as if fully set forth herein

182. Defendants denied Plaintiffs equal access to the services and protections of the NYPD based on their national origins. Such discrimination violates the Equal Protection Clause of the New York State Constitution.

183. As a direct and proximate result of the above-mentioned acts, Plaintiffs have suffered injuries and damages.

FIFTH CAUSE OF ACTION: DEPRIVATION OF RIGHT TO PETITION GOVERNMENT FOR REDRESS OF GRIEVANCES UNDER U.S CONSTITUTION

184. Plaintiffs repeat and re-allege the foregoing paragraphs as if fully set forth herein.

185. Defendants, through their policy, custom or practice of denying language services to limited English proficient individuals, prevented Plaintiffs from filing complaints and reports and otherwise communicating with police officers from whom they sought assistance.

186. Defendants acted under color of state law to deprive Plaintiffs of their First

Amendment right to petition the government for the redress of grievances. A cause of action is created by 42 U.S.C. § 1983.

187. As a direct and proximate result of the above-mentioned acts, Plaintiffs have suffered injuries and damages.

SIXTH CAUSE OF ACTION:
DEPRIVATION OF RIGHT TO PETITION THE GOVERNMENT UNDER ARTICLE I, §9 OF THE NEW YORK STATE CONSTITUTION

188. Plaintiffs repeat and re-allege the foregoing paragraphs as if fully set forth herein.

189. Defendants, through their policy, custom or practice of denying language services to limited English proficient individuals, prevented Plaintiffs from filing complaints and reports and otherwise communicating with police officers from whom they sought assistance.

190. Defendants thereby deprived Plaintiffs of their right under the New York State Constitution to petition the government.

191. As a direct and proximate result of the above-mentioned acts, Plaintiffs have suffered injuries and damages.

SEVENTH CAUSE OF ACTION:
INTENTIONAL DISCRIMINATION BASED ON NATIONAL ORIGIN UNDER NEW YORK CITY'S HUMAN RIGHTS LAW

192. Plaintiffs repeat and re-allege the foregoing paragraphs as if fully set forth herein.

193. Defendant NYPD is a public accommodation under the NYC Human Rights Law.

194. Defendants' custom and practice of refusing to offer and provide interpretation services to limited English proficient Plaintiffs and others seeking to access NYPD services intentionally discriminates against Plaintiffs and other persons of foreign national origin by denying them access to the services and protections of the NYPD in violation of the New York City Human Rights Law.

195. Defendants' degrading and dehumanizing treatment of Plaintiffs constitutes intentional discrimination based on their national origin and deprives them of their rights under the New York City Human Rights Law.

196. Plaintiffs are entitled to injunctive relief and damages in an amount to be determined by the court.

EIGHTH CAUSE OF ACTION:
DISPARATE IMPACT DISCRIMINATION BASED ON NATIONAL ORIGIN UNDER NEW YORK CITY'S HUMAN RIGHTS LAW

197. Plaintiffs repeat and re-allege the foregoing paragraphs as if fully set forth herein.

198. Defendant NYPD is a public accommodation under the NYCHRL.

199. Defendants' custom and practice of refusing to offer and provide interpretation services to limited English proficient Plaintiffs and others seeking to access NYPD services disparately impacts Plaintiffs and other persons of foreign national origin by denying them access to the services and protections of the NYPD offered to English speakers, in violation of the New York City Human Rights Law.

200. Plaintiffs are entitled to injunctive relief and damages in an amount to be determined by the court.

NINTH CAUSE OF ACTION:
INDIVIDUAL CLAIMS OF PLAINTIFF MACARENO PURSUANT TO 42 U.S.C. § 1983 AGAINST OFFICER TRADOLSE AND JOHN DOES 1-3

201. Plaintiff ARLET MACARENO repeats and re-alleges the foregoing paragraphs related to her arrest and ongoing contact with the NYPD as if the same were fully set forth herein.

202. Defendants wrongfully and illegally arrested and detained Plaintiff Macareno.

203. The wrongful, unjustifiable, and unlawful apprehension, arrest and detention of Plaintiff Macareno was carried out without any basis, without Plaintiff's consent, and without probable cause or reasonable suspicion. In fact, Ms. Macareno, who is a victim of extreme and repeated domestic violence, attempted to communicate with and repeatedly asked for an interpreter to communicate with Defendants and was repeatedly denied, as alleged herein. Defendants, without hearing her story, arrested her without cause.

204. By using excessive force against Ms. Macareno and by failing to provide her with necessary medical treatment, Defendants deprived her of the rights, remedies, privileges, and immunities guaranteed to every citizen of the United States, including, but not limited to, rights guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution. A cause of action is created by 42 U.S.C. § 1983.

205. Officer Tradolse and John Does 1-3 acted, or failed to act, or to intervene, under color of state law and in their individual and official capacities and/or within the scope of their respective employments as NYPD officers. Said acts or failures to act or intervene by Defendants were beyond the scope of their jurisdiction, without authority of law, and in abuse of their powers. Defendants acted willfully, knowingly, and with the specific intent to deprive Plaintiff Macareno of her constitutional rights.

206. As a direct and proximate result of the misconduct detailed above, Plaintiff Macareno suffered injuries and damages alleged herein.

TENTH CAUSE OF ACTION:
INDIVIDUAL CLAIMS OF PLAINTIFF MACARENO UNDER STATE LAW AGAINST OFFICER TRADOLSE AND JOHN/JANE DOES 1-3

207. Plaintiff ARLET MACARENO repeats and re-alleges the foregoing paragraphs related to her arrest and ongoing contact with the NYPD as if the same were fully set forth herein.

208. By reason of the foregoing, and by wrongfully and illegally arresting, detaining and imprisoning Ms. Macareno, the Individual Defendants, under pretense and color of state law and acting within the scope of their employment as NYPD officers, falsely arrested and falsely imprisoned Ms. Macareno. At all relevant times, the Individual Defendants acted forcibly in apprehending and arresting Ms. Macareno.

209. The Individual Defendants acted with a knowing, willful, wanton, grossly reckless, unlawful, unreasonable, unconscionable, and flagrant disregard of Ms. Macareno's rights, privileges, welfare, and well-being, and are guilty of egregious and gross misconduct toward Ms. Macareno.

210. Defendant City of New York, as employer of the Individual Defendants, is responsible for the Individual Defendants' wrongdoing under the doctrine of *respondeat superior.*

211. As a direct and proximate result of the misconduct and abuse of authority detailed above, plaintiff sustained the damages herein before alleged.

ELEVENTH CAUSE OF ACTION:
INDIVIDUAL CLAIMS OF PLAINTIFF PADILLA TORRES PURSUANT TO 42 U.S.C. § 1983 AGAINST OFFICERS JOHN/JANE DOES 4-6

212. Plaintiff YANAHIT PADILLA TORRES repeats and re-alleges the foregoing paragraphs related to her arrest and ongoing contact with the NYPD as if the same were fully set forth herein.

213. Defendants wrongfully and illegally arrested and detained Plaintiff Padilla Torres.

214. The wrongful, unjustifiable, and unlawful apprehension, arrest and detention of Plaintiff Padilla Torres was carried out without any basis, without Plaintiff's consent, and without probable cause or reasonable suspicion. In fact, Ms. Padilla Torres, who is a victim of domestic violence, attempted to communicate with and repeatedly asked for an interpreter to communicate with Defendants and was repeatedly denied, as alleged herein. Defendants, without hearing her story, arrested her without cause.

215. By arresting and prosecuting Ms. Torres, Defendants deprived her of the rights, remedies, privileges, and immunities guaranteed to every citizen of the United States, including, but not limited to, rights guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution. A cause of action is created by 42 U.S.C. § 1983.

216. John/Jane Does 4-6 acted, or failed to act, or to intervene, under color of state law and in their individual and official capacities and/or within the scope of their respective employments as NYPD officers. Said acts or failures to act or intervene by Defendants were beyond the scope of their jurisdiction, without authority of law, and in abuse of their powers. Defendants acted willfully, knowingly, and with the specific intent to deprive Plaintiff Torres of

her constitutional rights.

217. As a direct and proximate result of the misconduct detailed above, Plaintiff Padilla Torres suffered injuries and damages alleged herein.

TWELFTH CAUSE OF ACTION:
INDIVIDUAL CLAIMS OF PLAINTIFF PADILLA TORRES UNDER STATE LAW AGAINST OFFICERS JOHN/JANE DOES 4-6 AND CITY OF NEW YORK

218. Plaintiff YANAHIT PADILLA TORRES repeats and re-alleges the foregoing paragraphs related to her arrest and ongoing contact with the NYPD as if the same were fully set forth herein.

219. By reason of the foregoing, and by wrongfully and illegally arresting, detaining and imprisoning Ms. Padilla Torres, the Individual Defendants, under pretense and color of state law and acting within the scope of their employment as NYPD officers, falsely arrested and falsely imprisoned Ms. Padilla Torres. At all relevant times, the Individual Defendants acted forcibly in apprehending and arresting Ms. Padilla Torres.

220. The Individual Defendants acted with a knowing, willful, wanton, grossly reckless, unlawful, unreasonable, unconscionable, and flagrant disregard of Ms. Padilla Torres' rights, privileges, welfare, and well-being, and are guilty of egregious and gross misconduct toward Ms. Padilla Torres.

221. Defendant City of New York, as employer of the Individual Defendants, is responsible for the Individual Defendants' wrongdoing under the doctrine of *respondeat superior.*

222. As a direct and proximate result of the misconduct and abuse of authority detailed above, plaintiff sustained the damages herein before alleged.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court:

1. Declare that Defendants' actions violated the Plaintiffs' rights under the U.S. Constitution, the New York Constitution, Title VI of the Civil Rights Act of 1964, the Safe Streets Act, the laws of New York State, and New York City Human Rights Law;

2. Enjoin further violations of the Plaintiffs' rights by issuing an injunction requiring the NYPD to:

a. Abide by laws and policies requiring the provision of interpreter services;

b. Refrain from unlawful treatment of LEP and foreign-born individuals;

c. Institute and implement policies and programs with respect to the provision of interpreter services and treatment of foreign-born and LEP communities that comply with all legal requirements;

d. Establish a system for tracking and monitoring NYPD practices regarding the use of interpreter services;

e. Institute measures to ensure compliance with NYPD policies regarding language services, including ongoing documentation of the provision of interpreter services.

f. Develop and implement appropriate training for members of the NYPD regarding treatment of LEP and foreign-born communities including when to provide an interpreter, how to properly work with interpreters, sensitivity training and cultural competence;

g. Develop appropriate supervisory procedures regarding the treatment of foreign-born and LEP communities and the provision of interpreter services to LEP individuals;

h. Implement a system of reporting to the Plaintiffs and the Court regarding the steps taken to cure the violations of the Plaintiffs' and other LEP individuals'rights;

3. Issue a judgment against the City of New York in an amount to be determined by the Court, including compensatory damages for injuries sustained by Plaintiffs in amounts that are fair, just, and reasonable;

4. Award Plaintiffs damages against Officer Tradolse, Officer Furda and John Does 1-6 to the extent that their liability is based upon actions that were reckless, willful, wanton, and malicious undertaken in their individual capacities, in an amount which is fair, just, and reasonably designed to punish and deter said conduct;

5. Order Defendants to pay reasonable costs and attorneys' fees to the Plaintiffs;

6. Grant any other relief the Court deems just and proper.

Dated: March 21, 2013
New York, N.Y.

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Appendix E

EXECUTIVE ORDER NO. 10 - 2012

TO: All Department Heads
FROM: Steven Bellone, County Executive
Dated: November 9, 2012
RE: **Countywide Language Access Policy**

WHEREAS, Suffolk County is a linguistically diverse county in which 20 percent of the County's population over 5 years old speaks a language other than English at home, and nearly 10 percent of the people in Suffolk County are English-language learners or they are limited-English proficient, insofar as English is not their primary language and have limited ability to read, speak, write or understand English, thereby presenting potential barriers to accessing important government programs or services;

WHEREAS, Title VI of the Civil Rights Act of 1964 prohibits agencies that receive federal funds for programs or activities from discriminating against persons on the basis of race, color or national origin; and

WHEREAS, pursuant to Presidential Executive Order 13166 (August 11, 2000), federally-funded agencies must take reasonable steps to ensure that people who have limited English proficiency (LEP) have access to the recipient's programs and services; and

WHEREAS, the public safety, health, economic prosperity, and general welfare of all Suffolk County residents is furthered by increasing language access to County programs and services; and

WHEREAS, the County is committed to ensuring that language access services are implemented in a cost effective and efficient manner;

NOW, THEREFORE, I, Steven Bellone, the County Executive of Suffolk County, by virtue of the authority vested in me pursuant to the authority of the Suffolk County Charter and Suffolk County Administrative Code, do hereby order as follows:

Definitions.

For purposes of this Order:

"Direct public services" means services administered by an agency directly to program beneficiaries and/or participants. For agencies that provide services to the public that are not programmatic in nature, such as emergency services, the provisions of this order shall be implemented to the greatest degree practicable.

"Executive County agencies" mean the agencies, departments and divisions of Suffolk County government overseen by the Suffolk County Executive as their administrative head.

"Vital documents, including essential public documents" means those documents most commonly distributed to the public that contain or elicit important and necessary information regarding the provision of basic County services.

Language Access Requirements.

1. Executive County agencies that provide direct public services shall, in all relevant programs and services, competently translate vital documents, including essential public documents such as forms and instructions provided to or completed by program beneficiaries or participants. The translation shall be in the six most common non-English languages spoken by individuals with limited-English proficiency in the County of Suffolk, based on United States census data, and relevant to services offered by each of such agencies. Competent translation shall mean a trans-language rendition of a written message in which the translator comprehends the source language and can write comprehensively in the target language to convey the meaning intended in the source language. Agencies shall not use online translation tools such as Google Translate, Yahoo!, Babel Fish, or comparable services. Translation shall be achieved on a rolling basis to be completed no later than 365 days from the signing of this Order.

2. Each such agency, in all relevant programs and services, shall provide competent interpretation services between the agency and an individual in his or her primary language with respect to the provision of services or benefits. Competent interpretation shall mean a trans-language rendition of a spoken message in which the interpreter comprehends the source language and can speak comprehensively in the target language to convey the meaning intended in the source language. The interpreter shall know relevant terminology and provide accurate interpretations by choosing equivalent expressions that convey the best matching and meaning to the source language and capture to the greatest possible extent, all nuances intended in the source message.

3. Each such agency shall publish a language access plan that will reflect how the agency will comply with this Order and all progress since it last submitted a language access plan. Such plan shall be issued within 90 days of the signing of this Order, and updated every two years thereafter.

4. Each language access plan shall set forth, at a minimum, the following:

   a. When and by what means the agency will provide, or is already providing, language assistance services;

   b. The titles of all available translated documents and the languages into which they have been translated;

   c. The number of public contact positions in the agency and the number of fully bilingual employees in public contact positions, including the languages they speak;

   d. A training plan for agency employees which includes, at minimum, annual training on the language access policies of the agency and how to provide language assistance services;

e. A plan for annual internal monitoring of the agency's compliance with this Order;

f. A plan of how the agency intends to notify the population of offered language assistant services; and

g. A language access coordinator at the agency, who shall be publicly identified.

5. The language access coordinator for each such agency shall monitor the agency's compliance with this Order by annually collecting data on the provision of language assistance services, the availability of translated materials, whether signage is properly posted, and any other relevant measures. The monitoring plan shall include feedback from the public, community groups, and other stakeholders.

6. Use of language services shall not be deemed by any county employee as a basis for inquiring into confidential information relating to immigration status or other personal or private attributes. No county employee shall inquire about or disclose confidential information, including, but not limited to, immigration status, unless such inquiry or disclosure is required by law.

7. The Deputy County Executive for Intergovernmental Affairs shall oversee, coordinate and provide guidance to agencies in implementing this Order and ensure that the provision of services by agencies meets acceptable standards of translation or interpretation.

Dated: November 14, 2012

Steven Bellone
Suffolk County Executive

cc: Regina M. Calcaterra, Chief Deputy County Executive
Fred Pollert, Deputy County Executive
Jon Schneider, Deputy County Executive
Hon. Joseph Sawicki, Jr., Comptroller
Hon. Judith A. Pascale, County Clerk
Hon. Thomas J Spota, District Attorney
Hon.Vincent F. DeMarco, Sheriff
Hon. Angie M. Carpenter, County Treasurer
Hon. William J. Lindsay, Presiding Officer
Hon. DuWayne Gregory, Legislator
Hon. John M. Kennedy, Legislator

EXECUTIVE ORDER NO. 67 - 2013

WHEREAS, pursuant to subdivision 1 of section 203 of the Nassau County Charter, the County Executive is responsible for the administration of all departments, offices and functions of the county government, and the efficient operation of county government; and

WHEREAS, Nassau County ("County") is a linguistically diverse county in which a percentage of the County's population speaks a language other than English at home, and more than 10 percent of Nassau County residents are limited-English proficient, insofar as English is not their primary language and have limited ability to read or understand English, thereby presenting potential barriers to accessing important government programs or services; and

WHEREAS, pursuant to Presidential Executive Order 13166 (August 11, 2000), federally-funded agencies must take reasonable steps to ensure that people who have limited English proficiency have access to the recipient's programs and services; and

WHEREAS, the general welfare of such County residents is furthered by increasing language access to essential County programs and services; and

WHEREAS, the County is committed to ensuring all County residents have access to essential programs and services provided by County agencies; and

WHEREAS, the County is committed to ensuring that language access services are implemented in a cost effective and efficient manner;

NOW, THEREFORE, by virtue of the authority vested in me pursuant to the Nassau County Charter and the Nassau County Administrative Code, I, Edward P. Mangano, do hereby:

ORDER, that the heads of every department under the jurisdiction of the Office of the County Executive that provides direct services to the public who are program recipients and/or participants shall make available on the County website vital documents, as determined by the respective department heads and with the approval of the Chief Deputy County Executive, containing information, instructions and notifications regarding direct programs and services in English and the six most common non-English languages spoken by individuals with limited-English proficiency in the County of Nassau, based on United States census data; and it is further

ORDERED, that said documents shall be accessible by the public on the website and shall be in printable format for the public; and it is further

ORDERED, that, upon approval of the Chief Deputy County Executive, the department heads may retain contractual services to accomplish the translation of vital documents; and it is further

ORDERED, that, where practical and effective, the translation of said documents into the six most common non-English languages may be accomplished through an online translation service, or computer software translation package approved by the department heads Chief Deputy County Executive; and it is further

ORDERED, that such translations shall be achieved on a rolling basis to be completed no later than 365 days from the signing of this Executive Order; and it is further

ORDERED, that each department shall publish a language access plan within 120 days of the signing of this Order, and updated versions as needed thereafter, that will set forth, at minimum, the following:

a. When and by what means the agency will provide, or is already providing, language assistance services;

b. The titles of all available translated documents and the languages into which they have been translated;

c. The number of public contact positions in the agency and the number of fully bilingual employees in public contact positions, including the languages they speak;

d. A training plan for agency employees on how to access the online database of translated documents; and

e. A language access coordinator at the agency, who shall be an employee of the agency and who shall be publicly identified; and it is further

ORDERED, that departments providing services to the public that are non-programmatic in nature, such as emergency services, shall implement the provisions of this Executive Order to the greatest degree practicable; and it is further

ORDERED, that the language access coordinators shall monitor compliance with this Order by annually collecting data on the provision of language assistance services and the availability of translated materials; and it is further

ORDERED, that the Deputy County Executive for Minority Affairs shall provide guidance and/or assistance to any department that so requests in implementing this Order, and ensure that the provision of services set forth herein meets acceptable standards of translation or interpretation to ensure the information is correctly communicated.

Dated: 7-30, 2013

Edward Mangano
Nassau County Executive

EXECUTIVE ORDER NO. 72 - 2013

WHEREAS, pursuant to subdivision 1 of section 203 of the Nassau County Charter, the County Executive is responsible for the administration of all departments, offices and functions of the county government, and the efficient operation of county government; and

WHEREAS, Nassau County ("County") is a linguistically diverse county and the County is committed to ensuring all County residents have access to essential government programs and services; and

WHEREAS, the general welfare of all Nassau County residents is furthered by increasing language access to essential County programs and services, on July 30, 2013 I issued Executive Order 67-2013 concerning the translation of vital documents into the six most common non-English languages spoken by individuals with limited English proficiency; and

WHEREAS, the County is committed to ensuring that competent interpretation services are available in departments under the jurisdiction of the Office of County Executive, as referenced in Executive Order 67-2013, in a cost effective and efficient manner;

NOW, THEREFORE, by virtue of the authority vested in me pursuant to the Nassau County Charter and the Nassau County Administrative Code, I, Edward P. Mangano, do hereby:

ORDER, that each such department operating under the Office of the County Executive ("departments") that provides direct public services shall, in all relevant programs and services, provide competent interpretation services between the department and a program or service recipient and/or participant in his/her primary language; and it is further

ORDERED, that such interpretation services may be provided through competently bilingual County employees or available interpretation services - such as telephonic - as approved by the Chief Deputy County Executive; and it is further

ORDERED, that every department, upon publication of a language access plan, shall submit to the Deputy County Executive for the Office of Minority Affairs a listing of all competently bi-lingual employees in their respective departments along with the office contact number for each such employee; and it is further

ORDERED, that the Deputy County Executive for the Office of Minority Affairs or designee shall, within 90 days of the publication of the department language access plans, compile a comprehensive listing of all said competently bi-lingual employees and disseminate said listing to all department heads; and it is further

ORDERED, that the use of language services shall not be deemed by any county employee as a basis for inquiring into confidential information relating to immigration status. No county employee shall disclose confidential information, including, but not limited to, immigration status, unless such disclosure is necessary to identify and provide appropriate services and/or referrals to an individual, or is otherwise required by law; and it is further

ORDERED, that each department's language access plan shall include, in addition to the requirements set forth in Executive Order 67-2013 for said plan:

a. That only competent translation and interpretation services shall be provided, and the manner in which competency of the translation and interpretation services shall be determined;

b. How/where department employees can access the comprehensive listing of competently bi-lingual employees;

c. Instructions for department employees on available interpretation services and how and when such services can be utilized;

d. A training plan for initial mandatory employee training on the language access plan, subsequent training for all new department employees, and periodic training as needed, particularly when new services are made available and/or revisions are made to the language access plan;

e. The manner in which the public shall be notified of language access services at the department; and it is further

ORDERED, that each department shall submit its language access plan to the Counsel to the County Executive for review and approval; and it is further

ORDERED, that in addition to the responsibilities enumerated in Executive Order 67-2013, the language access coordinator for each such department shall: monitor compliance with this Order by annually collecting data on the provision and availability of interpretation services; ensure notice of the availability of language access services is prominently displayed; and shall be responsible for responding to and/or addressing any correspondence and communications from members of the public regarding these services.

Dated: Aug. 15, 2013

Edward P. Mangano
Nassau County Executive

SOURCE: http://www.governor.ny.gov/executiveorder/26

No.26 STATEWIDE LANGUAGE ACCESS POLICY

WHEREAS, two and one-half million New Yorkers have limited-English proficiency which means they do not speak English as their primary language and have limited ability to read, speak, write or understand English, thereby presenting potential barriers to accessing important government programs or services; and

WHEREAS, the public safety, health, economic prosperity, and general welfare of all New York residents is furthered by increasing language access to State programs and services; and

WHEREAS, the State is committed to ensuring that language access services are implemented in a cost effective and efficient manner;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York, do hereby order as follows:

1. Executive State agencies that provide direct public services shall translate vital documents, including essential public documents such as forms and instructions provided to or completed by program beneficiaries or participants. The translation shall be in the six most common non-English languages spoken by individuals with limited-English proficiency in the State of New York, based on United States census data, and relevant to services offered by each of such agencies. Translation shall be achieved on a rolling basis to be completed no later than 365 days of the signing of this Order.

2. Each such agency shall provide interpretation services between the agency and an individual in his or her primary language with respect to the provision of services or benefits.

3. Each such agency shall publish a language access plan that will reflect how the agency will comply with this Order and all progress since it last submitted a language access plan. Such plan shall be issued within 90 days of the signing of this Order, and updated every two years thereafter.

4. Each language access plan shall set forth, at a minimum, the following:

a. When and by what means the agency will provide or is already providing language assistance services;
b. The titles of all available translated documents and the languages into which they have been translated;
c. The number of public contact positions in the agency and the number of bilingual employees in

public contact positions, including the languages they speak;
d. A training plan for agency employees which includes, at minimum, annual training on the language access policies of the agency and how to provide language assistance services;
e. A plan for annual internal monitoring of the agency's compliance with this Order;
f. A plan of how the agency intends to notify the population of offered language assistant services; and
g. A language access coordinator at the agency, who shall be publicly identified.

5. The language access coordinator for each such agency shall monitor the agency's compliance with this Order by annually collecting data on the provision of language assistance services, the availability of translated materials, whether signage is properly posted, and any other relevant measures.

6. The Deputy Secretary for Civil Rights shall oversee, coordinate and provide guidance to agencies in implementing this Order and ensure that the provision of services by agencies meets acceptable standards of translation or interpretation.

G I V E N under my hand and the Privy Seal of the State in the City of Albany this sixth day of October in the year two thousand eleven.

BY THE GOVERNOR

Secretary to the Governor

Federal Register

Wednesday,
August 16, 2000

Part V

The President

Executive Order 13166—Improving Access to Services for Persons With Limited English Proficiency

Department of Justice

Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency; Notice

Federal Register
Vol. 65, No. 159
Wednesday, August 16, 2000

Presidential Documents

Title 3—

The President

Executive Order 13166 of August 11, 2000

Improving Access to Services for Persons With Limited English Proficiency

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP), it is hereby ordered as follows:

Section 1. *Goals.*

The Federal Government provides and funds an array of services that can be made accessible to otherwise eligible persons who are not proficient in the English language. The Federal Government is committed to improving the accessibility of these services to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency shall also work to ensure that recipients of Federal financial assistance (recipients) provide meaningful access to their LEP applicants and beneficiaries. To assist the agencies with this endeavor, the Department of Justice has today issued a general guidance document (LEP Guidance), which sets forth the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations. As described in the LEP Guidance, recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

Sec. 2. *Federally Conducted Programs and Activities.*

Each Federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities. Agencies shall develop and begin to implement these plans within 120 days of the date of this order, and shall send copies of their plans to the Department of Justice, which shall serve as the central repository of the agencies' plans.

Sec. 3. *Federally Assisted Programs and Activities.*

Each agency providing Federal financial assistance shall draft title VI guidance specifically tailored to its recipients that is consistent with the LEP Guidance issued by the Department of Justice. This agency-specific guidance shall detail how the general standards established in the LEP Guidance will be applied to the agency's recipients. The agency-specific guidance shall take into account the types of services provided by the recipients, the individuals served by the recipients, and other factors set out in the LEP Guidance. Agencies that already have developed title VI guidance that the Department of Justice determines is consistent with the LEP Guidance shall examine their existing guidance, as well as their programs and activities, to determine if additional guidance is necessary to comply with this order. The Department of Justice shall consult with the agencies in creating their guidance and, within 120 days of the date of this order,

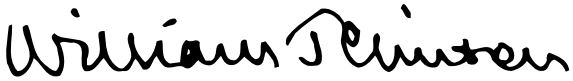
each agency shall submit its specific guidance to the Department of Justice for review and approval. Following approval by the Department of Justice, each agency shall publish its guidance document in the **Federal Register** for public comment.

Sec. 4. *Consultations.*

In carrying out this order, agencies shall ensure that stakeholders, such as LEP persons and their representative organizations, recipients, and other appropriate individuals or entities, have an adequate opportunity to provide input. Agencies will evaluate the particular needs of the LEP persons they and their recipients serve and the burdens of compliance on the agency and its recipients. This input from stakeholders will assist the agencies in developing an approach to ensuring meaningful access by LEP persons that is practical and effective, fiscally responsible, responsive to the particular circumstances of each agency, and can be readily implemented.

Sec. 5. *Judicial Review.*

This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person.



THE WHITE HOUSE,
August 11, 2000.

[FR Doc. 00–20938
Filed 8–15–00; 8:45 am]
Billing code 3195–01–P

DEPARTMENT OF JUSTICE

Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency; Policy Guidance

AGENCY: Civil Rights Division, Department of Justice.

ACTION: Policy guidance document.

SUMMARY: This Policy Guidance Document entitled ''Enforcement of Title VI of the Civil Rights Act of 1964 '' National Origin Discrimination Against Persons with Limited English Proficiency (LEP Guidance)'' is being issued pursuant to authority granted by Executive Order 12250 and Department of Justice Regulations. It addresses the application of Title VI's prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency. This policy guidance does not create new obligations, but rather, clarifies existing Title VI responsibilities. The purpose of this document is to set forth general principles for agencies to apply in developing guidelines for services to individuals with limited English proficiency. The Policy Guidance Document appears below.

DATES: Effective August 11, 2000.

ADDRESSES: Coordination and Review Section, Civil Rights Division, P.O. Box 66560, Washington, D.C. 20035–6560.

FOR FURTHER INFORMATION CONTACT: Merrily Friedlander, Chief, Coordination and Review Section, Civil Rights Division, (202) 307–2222.

Helen L. Norton,

Counsel to the Assistant Attorney General, Civil Rights Division.

Office of the Assistant Attorney General

Washington, D.C. 20530

August 11, 2000.

TO: Executive Agency Civil Rights Officers

FROM: Bill Lann Lee, Assistant Attorney General, Civil Rights Division

SUBJECT: Policy Guidance Document: *Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency* (''LEP Guidance'')

This policy directive concerning the enforcement of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d *et seq., as amended*, is being issued pursuant to the authority granted by Executive Order No. 12250 [1] and Department of Justice regulations.[2] It addresses the application to recipients of federal financial assistance of Title VI's prohibition on national origin discrimination when information is provided only in English to persons who do not understand English. This policy guidance does not create new obligations but, rather, clarifies existing Title VI responsibilities.

Department of Justice Regulations for the Coordination of Enforcement of Non-discrimination in Federally Assisted Programs (Coordination Regulations), 28 C.F.R. 42.401 *et seq.*, direct agencies to ''publish title VI guidelines for each type of program to which they extend financial assistance, where such guidelines would be appropriate to provide detailed information on the requirements of Title VI.'' 28 CFR § 42.404(a). The purpose of this document is to set forth general principles for agencies to apply in developing such guidelines for services to individuals with limited English proficiency (LEP). It is expected that, in developing this guidance for their federally assisted programs, agencies will apply these general principles, taking into account the unique nature of the programs to which they provide federal financial assistance.

A federal aid recipient's failure to assure that people who are not proficient in English can effectively participate in and benefit from programs and activities may constitute national origin discrimination prohibited by Title VI. In order to assist agencies that grant federal financial assistance in ensuring that recipients of federal financial assistance are complying with their responsibilities, this policy directive addresses the appropriate compliance standards. Agencies should utilize the standards set forth in this Policy Guidance Document to develop specific criteria applicable to review the programs and activities for which they offer financial assistance. The Department of Education [3] already has established policies, and the Department of Health and Human Services (HHS) [4] has been developing guidance in a manner consistent with Title VI and this Document, that applies to their specific programs receiving federal financial assistance.

Background

Title VI of the Civil Rights Act of 1964 prohibits recipients of federal financial assistance from discriminating against or otherwise excluding individuals on the basis of race, color, or national origin in any of their activities. Section 601 of Title VI, 42 U.S.C. § 2000d, provides:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The term ''program or activity'' is broadly defined. 42 U.S.C. § 2000d–4a.

Consistent with the model Title VI regulations drafted by a Presidential task force in 1964, virtually every executive agency that grants federal financial assistance has promulgated regulations to implement Title VI. These regulations prohibit recipients from ''restrict[ing] an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program'' and ''utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination'' or have ''the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.''

In *Lau* v. *Nichols*, 414 U.S. 563 (1974), the Supreme Court interpreted these provisions as requiring that a federal financial recipient take steps to ensure that language barriers did not exclude LEP persons from effective participation in its benefits and services. *Lau* involved a group of students of Chinese origin who did not speak English to whom the recipient provided the same services—an education provided solely in English—that it provided students who did speak English. The Court held that, under these circumstances, the school's practice violated the Title VI prohibition against discrimination on

[1] 42 U.S.C. § 2000d–1 note.

[2] 28 C.F.R. § 0.51.

[3] Department of Education policies regarding the Title VI responsibilities of public school districts with respect to LEP children and their parents are reflected in three Office for Civil Rights policy documents: (1) the May 1970 memorandum to school districts, ''Identification of Discrimination and Denial of Services on the Basis of National Origin,'' (2) the December 3, 1985, guidance document, ''The Office for Civil Rights' Title VI Language Minority Compliance Procedures,'' and (3) the September 1991 memorandum, ''Policy Update on Schools Obligations Toward National Origin Minority Students with Limited English Proficiency.'' These documents can be found at the Department of Education website at www.ed.gov/office/OCR.

[4] The Department of Health and Human Services is issuing policy guidance titled: ''Title VI Prohibition Against National Origin Discrimination As It Affects Persons With Limited English Proficiency.'' This policy addresses the Title VI responsibilities of HHS recipients to individuals with limited English proficiency.

the basis of national origin. The Court observed that ''[i]t seems obvious that the Chinese-speaking minority receive fewer benefits than the English-speaking majority from respondents' school system which denies them a meaningful opportunity to participate in the educational program—all earmarks of the discrimination banned by'' the Title VI regulations.[5] Courts have applied the doctrine enunciated in *Lau* both inside and outside the education context. It has been considered in contexts as varied as what languages drivers' license tests must be given in or whether material relating to unemployment benefits must be given in a language other than English.[6]

Link Between National Origin And Language

For the majority of people living in the United States, English is their native language or they have acquired proficiency in English. They are able to participate fully in federally assisted programs and activities even if written and oral communications are exclusively in the English language.

The same cannot be said for the remaining minority who have limited English proficiency. This group includes persons born in other countries, some children of immigrants born in the United States, and other non-English or limited English proficient persons born in the United States, including some Native Americans. Despite efforts to learn and master English, their English language proficiency may be limited for some time.[7] Unless grant recipients take steps to respond to this difficulty, recipients effectively may deny those who do not speak, read, or understand English access to the benefits and services for which they qualify.

Many recipients of federal financial assistance recognize that the failure to provide language assistance to such persons may deny them vital access to services and benefits. In some instances, a recipient's failure to remove language barriers is attributable to ignorance of the fact that some members of the community are unable to communicate in English, to a general resistance to change, or to a lack of awareness of the obligation to address this obstacle.

In some cases, however, the failure to address language barriers may not be simply an oversight, but rather may be attributable, at least in part, to invidious discrimination on the basis of national origin and race. While there is not always a direct relationship between an individual's language and national origin, often language does serve as an identifier of national origin.[8] The same sort of prejudice and xenophobia that may be at the root of discrimination against persons from other nations may be triggered when a person speaks a language other than English.

> Language elicits a response from others, ranging from admiration and respect, to distance and alienation, to ridicule and scorn. Reactions of the latter type all too often result from or initiate racial hostility * * *. It may well be, for certain ethnic groups and in some communities, that proficiency in a particular language, like skin color, should be treated as a surrogate for race under an equal protection analysis.[9]

While Title VI itself prohibits only intentional discrimination on the basis of national origin,[10] the Supreme Court has consistently upheld agency regulations prohibiting unjustified discriminatory effects.[11] The Department of Justice has consistently adhered to the view that the significant discriminatory effects that the failure to provide language assistance has on the basis of national origin, places the treatment of LEP individuals comfortably within the ambit of Title VI and agencies' implementing regulations.[12] Also, existing language barriers potentially may be rooted in invidious discrimination. The Supreme Court in *Lau* concluded that a recipient's failure to take affirmative steps to provide ''meaningful opportunity'' for LEP individuals to participate in its programs and activities violates the recipient's obligations under Title VI and its regulations.

All Recipients Must Take Reasonable Steps To Provide Meaningful Access

Recipients who fail to provide services to LEP applicants and beneficiaries in their federally assisted programs and activities may be discriminating on the basis of national origin in violation of Title VI and its implementing regulations. Title VI and its regulations require recipients to take reasonable steps to ensure ''meaningful'' access to the information and services they provide. What constitutes reasonable steps to ensure meaningful access will be contingent on a number of factors. Among the factors to be considered are the number or proportion of LEP persons in the eligible service population, the frequency with which LEP individuals come in contact with the program, the importance of the service provided by the program, and the resources available to the recipient.

(1) Number or Proportion of LEP Individuals

Programs that serve a few or even one LEP person are still subject to the Title VI obligation to take reasonable steps to provide meaningful opportunities for access. However, a factor in determining the reasonableness of a recipient's efforts is the number or proportion of people who will be excluded from the benefits or services absent efforts to remove language barriers. The steps that are reasonable for a recipient who serves one LEP person a year may be different than those expected from a recipient that serves several LEP persons each day. But even those who serve very few LEP persons on an infrequent basis should utilize this balancing analysis to determine whether reasonable steps are

[5] 414 U.S. at 568. Congress manifested its approval of the *Lau* decision requirements concerning the provision of meaningful education services by enacting provisions in the Education Amendments of 1974, Pub. L. No. 93–380, §§ 105, 204, 88 Stat. 503–512, 515 codified at 20 U.S.C. 1703(f), and the Bilingual Education Act, 20 U.S.C. 7401 *et seq*., which provided federal financial assistance to school districts in providing language services.

[6] For cases outside the educational context, *see, e.g.*, *Sandoval* v. *Hagan*, 7 F. Supp. 2d 1234 (M.D. Ala. 1998), *affirmed*, 197 F.3d 484, (11th Cir. 1999), *rehearing and suggestion for rehearing en banc denied*, 211 F.3d 133 (11th Cir. Feb. 29, 2000) (Table, No. 98–6598–II), *petition for certiorari filed* May 30, 2000 (No. 99–1908) (giving drivers' license tests only in English violates Title VI); and *Pabon* v. *Levine*, 70 F.R.D. 674 (S.D.N.Y. 1976) (summary judgment for defendants denied in case alleging failure to provide unemployment insurance information in Spanish violated Title VI).

[7] Certainly it is important to achieve English language proficiency in order to fully participate at every level in American society. As we understand the Supreme Court's interpretation of Title VI's prohibition of national origin discrimination, it does not in any way disparage use of the English language.

[8] As the Supreme Court observed, ''[l]anguage permits an individual to express both a personal identity and membership in a community, and those who share a common language may interact in ways more intimate than those without this bond.'' *Hernandez* v. *New York,* 500 U.S. 352, 370 (1991) (plurality opinion).

[9] *Id*. at 371 (plurality opinion).

[10] *Alexander* v. *Choate,* 469 U.S. 287, 293 (1985).

[11] Id. at 293–294; *Guardians Ass'n* v. *Civil Serv. Comm'n,* 463 U.S. 582, 584 n.2 (1983) (White, J.), 623 n.15 (Marshall, J.), 642–645 (Stevens, Brennan, Blackmun, JJ.); *Lau* v. *Nichols,* 414 U.S. at 568; *id.* at 571 (Stewart, J., concurring in result). In a July 24, 1994, memorandum to Heads of Departments and Agencies that Provide Federal Financial Assistance concerning ''Use of the Disparate Impact Standard in Administrative Regulations Under Title VI of the Civil Rights Act of 1964,'' the Attorney General stated that each agency ''should ensure that the disparate impact provisions of your regulations are fully utilized so that all persons may enjoy equally the benefits of federally financed programs.''

[12] The Department's position with regard to written language assistance is articulated in 28 CFR § 42.405(d)(1), which is contained in the Coordination Regulations, 28 CFR Subpt. F, issued in 1976. These Regulations ''govern the respective obligations of Federal agencies regarding enforcement of title VI.'' 28 CFR § 42.405. Section 42.405(d)(1) addresses the prohibitions cited by the Supreme Court in *Lau*.

possible and if so, have a plan of what to do if a LEP individual seeks service under the program in question. This plan need not be intricate; it may be as simple as being prepared to use one of the commercially available language lines to obtain immediate interpreter services.

(2) Frequency of Contact with the Program

Frequency of contacts between the program or activity and LEP individuals is another factor to be weighed. For example, if LEP individuals must access the recipient's program or activity on a daily basis, *e.g.*, as they must in attending elementary or secondary school, a recipient has greater duties than if such contact is unpredictable or infrequent. Recipients should take into account local or regional conditions when determining frequency of contact with the program, and should have the flexibility to tailor their services to those needs.

(3) Nature and Importance of the Program

The importance of the recipient's program to beneficiaries will affect the determination of what reasonable steps are required. More affirmative steps must be taken in programs where the denial or delay of access may have life or death implications than in programs that are not as crucial to one's day-to-day existence. For example, the obligations of a federally assisted school or hospital differ from those of a federally assisted zoo or theater. In assessing the effect on individuals of failure to provide language services, recipients must consider the importance of the benefit to individuals both immediately and in the long-term. A decision by a federal, state, or local entity to make an activity compulsory, such as elementary and secondary school attendance or medical inoculations, serves as strong evidence of the program's importance.

(4) Resources Available

The resources available to a recipient of federal assistance may have an impact on the nature of the steps that recipients must take. For example, a small recipient with limited resources may not have to take the same steps as a larger recipient to provide LEP assistance in programs that have a limited number of eligible LEP individuals, where contact is infrequent, where the total cost of providing language services is relatively high, and/or where the program is not crucial to an individual's day-to-day existence. Claims of limited resources from large entities will need to be well-substantiated.[13]

Written vs. Oral Language Services

In balancing the factors discussed above to determine what reasonable steps must be taken by recipients to provide meaningful access to each LEP individual, agencies should particularly address the appropriate mix of written and oral language assistance. Which documents must be translated, when oral translation is necessary, and whether such services must be immediately available will depend upon the factors previously mentioned.[14] Recipients often communicate with the public in writing, either on paper or over the Internet, and written translations are a highly effective way of communicating with large numbers of people who do not speak, read or understand English. While the Department of Justice's Coordination Regulation, 28 CFR § 42.405(d)(1), expressly addresses requirements for provision of written language assistance, a recipient's obligation to provide meaningful opportunity is not limited to written translations. Oral communication between recipients and beneficiaries often is a necessary part of the exchange of information. Thus, a recipient that limits its language assistance to the provision of written materials may not be allowing LEP persons ''effectively to be informed of or to participate in the program'' in the same manner as persons who speak English.

In some cases, ''meaningful opportunity'' to benefit from the program requires the recipient to take steps to assure that translation services are promptly available. In some circumstances, instead of translating all of its written materials, a recipient may meet its obligation by making available oral assistance, or by commissioning written translations on reasonable request. It is the responsibility of federal assistance-granting agencies, in conducting their Title VI compliance activities, to make more specific judgments by applying their program expertise to concrete cases.

Conclusion

This document provides a general framework by which agencies can determine when LEP assistance is required in their federally assisted programs and activities and what the nature of that assistance should be. We expect agencies to implement this document by issuing guidance documents specific to their own recipients as contemplated by the Department of Justice Coordination Regulations and as HHS and the Department of Education already have done. The Coordination and Review Section is available to assist you in preparing your agency-specific guidance. In addition, agencies should provide technical assistance to their recipients concerning the provision of appropriate LEP services.

[13] Title VI does not require recipients to remove language barriers when English is an essential aspect of the program (such as providing civil service examinations in English when the job requires person to communicate in English, *see Frontera* v. *Sindell,* 522 F.2d 1215 (6th Cir. 1975)), or there is another ''substantial legitimate justification for the challenged practice.'' *Elston* v. *Talladega County Bd. of Educ.,* 997 F.2d 1394, 1407 (11th Cir. 1993). Similar balancing tests are used in other nondiscrimination provisions that are concerned with effects of an entity's actions. For example, under Title VII of the Civil Rights Act of 1964, employers need not cease practices that have a discriminatory effect if they are ''consistent with business necessity'' and there is no ''alternative employment practice'' that is equally effective. 42 U.S.C. § 2000e–2(k). Under Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, recipients do not need to provide access to persons with disabilities if such steps impose an undue burden on the recipient. *Alexander* v. *Choate,* 469 U.S. at 300. Thus, in situations where all of the factors identified in the text are at their nadir, it may be ''reasonable'' to take no affirmative steps to provide further access.

[14] Under the four-part analysis, for instance, Title VI would not require recipients to translate documents requested under a state equivalent of the Freedom of Information Act or Privacy Act, or to translate all state statutes or notices of rulemaking made generally available to the public. The focus of the analysis is the nature of the information being communicated, the intended or expected audience, and the cost of providing translations. In virtually all instances, one or more of these criteria would lead to the conclusion that recipients need not translate these types of documents.

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Robert Doar
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Administrative Directive

Section 1

Transmittal:	06-ADM-05 Revised
To:	Local District Commissioners
Issuing Division/Office:	Division of Employment and Transitional Supports
Date:	Revision Date: April 27, 2006/Original Release: March 31, 2006
Subject:	Providing Access to Temporary Assistance Programs for Persons with Disabilities and/or Limited English Proficiency (LEP)
Suggested Distribution:	Temporary Assistance Directors HEAP Coordinators FS Directors Staff Development Coordinators CAP Coordinators Services Directors Medical Assistance Directors
Contact Person(s):	Cash Assistance (TA) at 1-800-343-8859, extension 4-9344; Food Stamps (FS), extension 3-1469; Home Energy Assistance Program (HEAP), extension 3-0332; and Metro Field Support Bureau (212) 961-8207
Attachments:	Attachment 1-District Self-Evaluation/Review Form
Attachment Available On – Line:	☐

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
77 ADM-130					
78 ADM-71					
83 ADM-19 86 ADM-26 02 LCM-7 03 LCM-3 04 LCM-7 85 INF-4 90 INF-53 03 INF-20 03 INF-37 03 INF-38 04 INF-15 05-INF-08		Part 303 Part 348.3 Part 351.1 Part 351.26 Part 355.1 Part 355.2 Part 356.2 Part 356.3 Part 357.1 Part 387.7 Part 393.3	29 USC 794 § 504 42 USC § 608 (d)(2) and (3) 45 CFR Part 84 SSL §136 and §331(3) 42 USC § 12101 et seq.	Welfare-to-Work Employment Policy Manual	GIS 99 MA/021

Section 2

I. Summary

The intent of this summary is to provide local social services district (hereafter "district") staff with an overview of the policy and implications of the material in the directive. The summary is not intended to take the place of the ADM itself. This directive consolidates existing policy guidance issued by OTDA (Office) for providing access to persons with disabilities and/or Limited English Proficiency (LEP), who are inquiring about, applying for, or receiving Temporary Assistance (TA), Food Stamps (FS) and assistance under the Home Energy Assistance Program (HEAP). This directive also provides districts with a convenient resource that reiterates existing requirements, including the provision of 12 terms that are defined in the federal Americans with Disabilities Act (ADA), examples of complaints that are not ADA-related and reiteration of applicable policies and regulations that pertain to persons with disabilities and/or LEP. A list of informational pamphlets is provided in the Section entitled Additional Resources, below.

General — Districts have the responsibilities to:

- ensure that applicants for and recipients of TA, FS and HEAP have equal access to all benefits, programs and services for which they are eligible, including those offered by other agencies operating on behalf of a district;
- ensure that emergency/immediate needs are addressed as may be appropriate to the case, and protect the filing or application date when an appointment is rescheduled for a person with a disability and/or LEP because reasonable accommodations cannot be made or no interpreter is available on the date the application is filed;

- document any limitations, necessary accommodations and/or LEP requirements to ensure access and coordinate services (e.g., note in the case record and on the Welfare-to-Work Case Management System that an individual is unable to climb stairs);

- provide information to applicants and recipients of public assistance or care, and not discriminate against anyone making the inquiry based on race, color, religion, national origin, age, sex, handicap (physical or mental impairment), genetic pre-disposition or carrier status, creed, arrest/convictions, marital status, sexual orientation, military status and/or retaliation; and

- assign a person to serve as ADA and LEP contact(s), to investigate any complaints of discrimination or improper case administration, and to inform applicants/recipients with a disability and/or LEP of their complaint procedures.

- ***Access by Persons with Disabilities*** — Districts have the responsibilities to:

- adopt methods of administration which do not discriminate against and which ensure equal access and opportunity to qualified individuals with disabilities;

- reasonably modify policies, practices and procedures that deny equal access to persons with disabilities but are not required to take action that would constitute a fundamental alteration in the benefit, program or services;

- assist applicants/recipients to meet eligibility requirements by eliminating non-essential procedures or rules that deny a person with a disability an equal opportunity to participate in the district's programs, services and benefits;

- make reasonable accommodation to the known physical or mental limitations of otherwise qualified applicants/recipients with disabilities unless the district can show that the accommodation would impose an undue financial and administrative burden on the operation of its program;

- make reasonable efforts to recognize potential disabilities, based on the applicant/recipient's disclosure or on an indication of an apparent disability;

- provide access to district offices, or provide alternative means of access;

- provide information in a manner that is accessible to persons with visual or hearing disabilities, and provide necessary auxiliary aids and services to ensure effective communication with persons with disabilities; and

- complete and submit to OTDA the self-evaluation review form (Attachment 1) and correct any deficiencies.

Access by Persons with LEP — Districts have the responsibilities to:

- obtain a qualified interpreter, but may not deny access to an application for benefits, programs or services based on the inability to provide adequate interpretation services;

- provide applicants/recipients the choice to use a relative or friend as an interpreter, but may not require applicants/recipients to bring their own interpreter; and

- make interpreter services desk guides available to workers and language posters available in all client areas.

II. Purpose

This directive consolidates existing policy guidance issued by OTDA (Office) regarding access to benefits, programs and services by persons with disabilities and/or LEP. The purpose of this directive is to provide districts with a convenient resource that reiterates existing requirements for providing access to persons with disabilities and/or LEP, who are inquiring about, applying for, or receiving Temporary Assistance (TA), Food Stamps (FS) and assistance under the Home Energy Assistance Program (HEAP). However, in recognition of the unique challenges presented in providing access to persons with disabilities and/or LEP, this directive also is intended to provide, within existing policy guidelines, flexibility to districts to develop individualized procedures that ensure access to benefits, programs and services, and that meet the requirements described in this directive operationally. This directive is not intended to imply that districts are not in compliance with existing policies regarding access to benefits, programs and services by persons with disabilities and/or LEP.

III. Background

A. Access by Persons with Physical and/or Mental Disabilities.

The federal ADA, enacted July 26, 1990, provides comprehensive civil rights protections to persons with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications. Counties are required to have on file a self-evaluation as mandated by ADA regulations to have been completed on or before January 26, 1993, where appropriate, regarding those policies and practices that previously had not been included in a self-evaluation required by section 504 of the federal Rehabilitation Act of 1973. Where structural modifications were needed to achieve program accessibility, all counties were required to have developed a transition plan by July 26, 1992, that provided for the removal of these barriers. Any structural modifications should have been completed as expeditiously as possible, but no later than January 26, 1995. Counties were required to comply with the requirements of Title II of the ADA on January 26, 1992, whether or not they had completed a self-evaluation.

Subtitle A of Title II of the ADA is intended to protect qualified persons with disabilities from discrimination on the basis of disability in the benefits, programs and services of all state and local governments. Title II also extends the protections against discrimination set forth in section 504 of the Rehabilitation Act, as amended, to all activities of state and local governments. All state and local government services and those services that receive state and/or local assistance must be in compliance with these requirements.

The Personal Responsibility and Work Opportunity Reconciliation Act ("PRWORA"), the federal Welfare Reform Law, specifically provides that section 504 and the ADA apply to any program or activity receiving federal TANF funds. 42 U.S.C.A. sections 608(d) (2) and (3), respectively.

In addition, Office regulations (Part 303 of 18 NYCRR) prohibit districts from discriminating against a person because of race, color, national origin, age, sex, religion or handicap (physical or mental impairment). Part 303.7 of 18 NYCRR extends the definition of the term handicap to include those persons having Acquired Immune Deficiency Syndrome (AIDS), testing positive for human immunodeficiency virus (HIV) infection or being perceived as susceptible to AIDS or HIV infection.

B. Access by Persons with LEP.

New York's TA, FS and HEAP programs' applicant/recipient population encompasses people with many different native languages and varying abilities to communicate in English. Since the 1980's, the State has been working with New York City and other districts to revise LEP policies and procedures and to provide increased services to persons with LEP.

On August 13, 1999, the Office and the Department of Health issued a General Information System message (GIS 99 MA/021) reminding districts of State policy regarding civil rights and access to FS, TA and Medical Assistance (MA) benefits. The GIS Message articulated New York State's policy that applicants for and recipients of

social services programs must have timely access to TA, FS and MA benefits regardless of race, color, religion, gender, age, national origin or disability. Each district is required to ensure that programs are administered in a fair and humane manner, and that all staff, especially those who have direct contact with applicants and recipients on a daily basis, understand this obligation and are trained to carry out these policies. Persons with LEP must be able to apply for benefits, programs and services without undue hardship.

On September 22, 2000, a joint "Local District Commissioner" letter was issued by the Department of Health and the Office. This letter introduced a mandated "Interpreter Services Poster" and a recommended district worker's "Interpreter Services Desk Guide". These documents were developed with the purpose of enhancing communication between the workers and clients who had LEP. These communications tools also were intended to expedite the process of engaging interpretation services for the client.

In 2002, the State reached an agreement with advocate groups to resolve litigation concerning the translation of various forms and informational materials as well as the provision of interpreter services to non-English speaking applicants and recipients of the Food Stamp program in New York City. The litigation alleged that New York policies, practices and customs violated federal FS regulations and failed to provide meaningful access to the FS program to persons who are not fluent in English. As part of the agreement, application and certification materials have been translated into Spanish, Russian, Chinese, Haitian-Creole and Arabic. Certain client informational materials also have been translated into those languages as well as French, Korean, Vietnamese and Yiddish. Application materials used at the New York City Food Stamp only centers have also been translated into Spanish, Russian, Chinese, Haitian-Creole, Arabic and Korean.

On March 21, 2005, the Office issued 05-INF-08, entitled "Revisions to PUB-4842: "Interpreter Services Poster" and PUB-4843: Interpreter Services Desk Guide."

The purpose of this release is two fold:

1. To notify districts that the mandated "Interpreter Services Poster" (PUB-4842) and the recommended district worker's "Interpreter Services Desk Guide" (PUB-4843) have been updated, reformatted and are available for ordering.

2. To also inform districts that the information contained on these documents has been translated into six additional languages. The complete list of "Other than English" languages is:

   Albanian, Arabic, Bengali, Bosnian, Chinese, Farsi, French, Haitian Creole, Hindi, Italian, Korean, Polish, Russian, Spanish, Tagalog, Ukrainian, Urdu, Vietnamese, Yiddish and Symbol for Deaf/Hearing Impaired.

As part of its on-going efforts to improve access to Office services and programs for persons with LEP, the Office has posted a variety of client-focused information on its Internet website at http://www.otda.state.ny.us/default.htm. Selected, client-focused information is now available in Spanish, Arabic, Chinese and Russian. Currently available on the website is translated information regarding the following programs:

Temporary Assistance, Food Stamps, Home Energy Assistance Program, and Earned Income Tax credits, Disability Determinations, and Refugee and Immigration Affairs. Also posted on the Internet in translation are key program applications and supportive documents, as well as informational brochures.

IV. Definitions

A. ADA Definitions

The following terms (1-12) are defined in the federal ADA and are provided in this Directive for your convenience.

1. A person with a disability is one who:

   a. Has a physical or mental impairment that substantially limits one or more of the major life activities of such person;

   b. Has a record of such impairment; or

   c. Is regarded as having such impairment.[1]

2. Physical impairment under 1.a means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine. Specific examples of physical impairments include orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV disease (symptomatic or asymptomatic), tuberculosis, drug addiction and alcoholism.

3. Mental Impairment under 1.a means any mental or psychological disorder including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

4. Major life activities under 1.a means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

5. Substantially limits under 1.a means the person's major life activities are restricted as to the conditions, manner, or duration under which they can be performed in comparison to most people. For example, a person who is paraplegic is substantially limited in the major life activity of walking; a person who is blind is substantially limited in the major life activity of seeing; and a person who is mentally retarded is substantially limited in the major life activity of learning.

[1] The definition of disability under the ADA is distinctly different from, and more general than, the Social Security Administration definition of disability as used in Social Security disability reviews.

6. Record of impairment under 1.b means that the person has a history of, or has been misclassified as having, a physical or mental impairment that substantially limits one or more major life activities.

- Examples of those who have a history of impairment are those with histories of mental or emotional illness, heart disease or cancer.

- Examples of those who were misclassified as having a record of such impairment, i.e., any record or perception of an alleged impairment that subsequently was found not to be factually correct, may include those who have been erroneously diagnosed as having mental retardation or mental illness. Discrimination on the basis of such a past record of impairment is prohibited.

7. Regarded as having such impairment under 1.c means:

   a. The person has a physical or mental impairment that does not substantially limit major life activities, but the person is treated as having such a limitation; e.g., an individual with mild diabetes controlled by medication, is wrongfully barred by the staff of a county-sponsored summer camp from participation in certain sports because of her diabetes; or

   b. The person has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; e.g., a child born with a prominent facial disfigurement, is wrongfully refused admittance to a county-run day care program because her presence in the program might upset the other children; or

   c. The person has no impairment but is treated as having impairment; e.g., a person is excluded from a county-sponsored activity because the official believes unfounded rumors that the person is infected with the HIV virus. Myths, fears and stereotypes associated with disabilities or perceived physical or mental conditions may limit the person's major life activities and qualify the person for protection under the ADA.

8. Qualified person with a disability means a person with a disability, as defined under paragraph 1., who, with or without reasonable modifications to rules, policies, or practices; the removal of architectural, communication, or transportation barriers; or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a district. A person with a disability is qualified if that person meets the essential eligibility requirements for receipt of services or participation in the program or activity.

9. Auxiliary aids and services include:

   a. Qualified interpreters, note-takers, transcription services, written materials, telephone handset amplifiers, assistive learning devices,

assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning telecommunication devices for deaf persons (TDDs), videotext displays, or other effective methods of making orally-delivered material available to persons with hearing impairments;

b. Qualified readers, taped texts, audio recordings, Braille materials, large print material, or other effective methods of making visually delivered material available to persons with visual impairments;

c. Acquisition or modification of equipment or devices;

d. Interpreter Services, Desk Guide/Posters;

e. Other similar services and actions.

10. A qualified interpreter under paragraph 9.a is an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.

11. Reasonable accommodations may include:

a. Making existing facilities used by disabled applicants for and recipients of benefits, programs and services readily accessible to and usable by such persons;

b. Job restructuring, part-time or modified work schedules, reassignment to a vacant position;

c. Acquisition or modification of equipment or devices;

d. Appropriate adjustment or modifications of examinations, training materials or policies;

e. Provision of qualified readers or interpreters; and

f. Other similar accommodations for persons with disabilities.

12. A complaint is complete for purposes of the federal ADA if it contains a written statement that contains the complainant's name and address and describes the district's alleged discriminatory actions in sufficient detail to inform the Office of the nature and date of the alleged violation of Title II of the ADA. It must be signed by the complainant or by someone authorized to do so on his or her behalf. (A complaint for non-ADA purposes is defined in subsection B. below.)

B. Examples of Complaints that are not ADA Related

1. Complaint, as defined by Office regulations at 18 NYCRR Part 356.1(b), is any written or oral communication made to a social services district or this Office by

or on behalf of an applicant for or a recipient of public assistance or care, other than a complaint for which there is a right to a fair hearing, or a communication from any other source directed or referred to the social services district or this Office alleging, directly or indirectly, dissatisfaction with:

a. The action or failure to act in a particular case;

b. The manner in which a social services district generally handles its cases;

c. The social services districts' facilities and services, or the manner in which it generally conducts its business;

d. Other facilities or services (public or private) employed by a social services district for providing care and services for its clients; or

e. Any other aspect of social services administration not mentioned in this section.

V. Program Implications

A. General Requirements for All Applicants for and Recipients of TA, FS or HEAP.

1. Districts should review their procedures to ensure that the requirements described in this section are met operationally. Districts are encouraged to be flexible and creative in discharging their responsibilities under the ADA and concerning access by persons with LEP.

- It is the responsibility of each district to ensure that applicants for and recipients of TA, FS and HEAP have access to all benefits, programs and services, including those offered by other agencies operating on behalf of a district. If an applicant/recipient is determined eligible for one or more benefits, programs or services, the district should attempt to coordinate activities so the process is as seamless as possible, and that the identified need(s) of the applicant/recipient is (are) met. Districts should document in the case record a person's disability and/or any LEP information to indicate the types of actions taken to ensure access and coordinate the service process. Districts should maintain a record of requests for accommodations and how such requests were addressed by the district.

- Districts must adhere to confidentiality provisions as required by Social Services Law section 136 for applicants for and recipients of TA, FS and HEAP. Districts must also protect the confidentiality and privacy of information regarding the existence of a person's disability. Districts must share only the accommodations required, not the nature of a disability, with individuals providing client services who do not need to know the nature of the disability. Districts also must ensure that persons acting as interpreters for persons with LEP understand their obligation to maintain client confidentiality.

- Applicant/recipient interviews should be conducted to the extent practicable, in areas in which reasonable privacy is afforded; applicant/recipient interviews should be scheduled in a way that will minimize waiting and that will result in a minimum number of return visits. For example, sufficient space should be available to accommodate wheelchair access for compliance with Automated Finger Imaging System (AFIS) requirements, or the district must provide an alternate means of obtaining a photograph of the applicant/recipient.

- Documentation and referral information must be clearly explained to applicants/recipients.

- Waiting areas should be accessible to persons with disabilities and reasonably comfortable, to the extent practicable. There should be reasonable access to rest rooms, water fountains, and other necessities.

- Districts should make interpreter services desk guides available to workers and language posters available in all client areas. The Office has revised its interpreter services desk guide and language preference poster. These revised materials are available to districts as described in Section VII.

B. Requirements Pertaining To Applicants/Recipients under the ADA.

Districts must afford qualified persons with a disability an opportunity to participate in or benefit from a district's benefits, programs and services. Districts are responsible for ensuring that the opportunities afforded to qualified persons with a disability are equal to the opportunities afforded to persons without disabilities. Districts may carry out their activities using contractual arrangements or community resources.

Districts should maintain information that documents limitations and any necessary accommodations to ensure access for individuals with disabilities. This information should be available to all appropriate staff responsible for providing benefits and services. For example, information describing an individual's limitations and need for accommodations should be included in the employability assessment and considered when developing the employability plan. This information should be considered when determining appropriate activity assignments, including treatment for individuals. Districts are also required to notify worksite supervisor(s) in writing of an individual's limitations and need for reasonable accommodation.

An applicant/recipient's right to reasonable accommodations extends beyond work activities, therefore, information describing limitations and necessary accommodations should be available to any appropriate staff responsible for managing the client's case. For example, if an individual cannot have early morning appointments because of medication issues, or cannot climb stairs, the district should maintain documentation of the limitation(s) and necessary accommodation(s) to insure that the individual's needs are accommodated over time and through referrals to various sources.

Districts must adopt methods of administration which do not discriminate against and which ensure equal access and opportunity to qualified individuals with disabilities.

Districts must reasonably modify policies, practices and procedures that deny equal access to persons with disabilities but are not required to take action that would constitute a fundamental alteration in the benefit, program or services. If a proposed action would result in a fundamental alteration or undue burden, the district must take another action that would not cause this result. Districts must operate their programs so that, when viewed in their entirety, they are readily accessible to and usable by persons with disabilities. Districts have discretion in how they discharge this responsibility.

These requirements are subject to the limitations described below.

- The determination of whether a temporary impairment is a disability must be resolved on an individual basis, taking into consideration both the duration (and expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected person.

- The ADA does not cover disadvantages attributable to environmental, cultural or economic factors such as poverty or having a criminal record.

- The ADA also does not cover mere physical characteristics such as hair, skin, or eye color.

- Age by itself is not considered to be a disability under the ADA unless the person has a physical or mental impairment that limits one or more of their major life activities.

- The ADA does not cover personality traits such as poor judgment or a quick temper where these are not symptoms of a mental or psychological disorder, unless the person has a recognizable physical or mental impairment in addition to these characteristics. Although drug addiction is a recognized impairment under the ADA, a district may withhold services or benefits based on an addict's current and illegal use of drugs or abuse of alcohol. Although a district ordinarily must consider good cause when an applicant with a physical or mental disability fails to comply with an eligibility requirement, the district should not consider the applicant's use or abuse of drugs or alcohol as good cause for his/her failure to comply.

Districts must attempt through reasonable means (e.g., posters, client booklets, etc.) to provide sufficient information to applicants/recipients, including persons who fail to self-disclose existing physical or mental impairments, to inform them of their rights under the ADA to reasonable accommodations to access benefits, programs or services provided by the district. Districts should make reasonable efforts to recognize potential disabilities, based on the applicant/recipient's disclosure or on an indication of an apparent disability. Staff should conduct an initial inquiry to identify an applicant or recipient's disability needs if the applicant or recipient agrees to take part in such inquiry. If there is an initial indication that the person has a disability that may impact his/her ability to successfully complete or benefit from the district's benefits, programs or services, based on the applicant's/recipient's disclosure or other information or indication that an apparent disability may exist, the district should offer the person an opportunity for a more comprehensive evaluation or assessment to determine whether an accommodation is necessary. However, districts may not inquire into the nature of the

disability beyond what is necessary to provide reasonable accommodation to access benefits, programs or services. Districts should take appropriate steps to ensure the confidentiality of information concerning a person's disability.

In addition, districts should use behavioral observations, historical data known to the agency or other means to help identify those persons who may not be able to self-disclose existing physical or mental conditions to district staff, and may then offer reasonable modifications in policies, practices, and procedures to make benefits, programs or services accessible for those persons. For example, district staff may observe an applicant/recipient acting in a disruptive or hostile manner toward other applicants/recipients in the waiting area. As a result of such observation, the district should consider making reasonable modifications to policies, practices, and procedures for such person, and may use staff with experience assisting hard-to-serve persons, or mental health professionals, as may be determined appropriate by the district, to speak with the applicant/recipient to assess whether he/she has disability-related needs and what reasonable accommodations are needed. Such staff should possess good communication, listening and assessment skills and the ability to work positively in a team setting. Then, if necessary, the district may re-direct the applicant/recipient to a modified process where the applicant/recipient may be able to effectively articulate his/her needs and adequately complete the application, recertification or other process, or the district may provide someone to assist a person with a physical or mental disability to complete the application or other required form.[2]

Applicants for and recipients of TA may establish good cause for not complying with eligibility requirements. Good cause may include instances when the applicant or recipient has a physical or mental impairment that prevents compliance, pursuant to 18 NYCRR 351.26(a) (1). For example, a recipient is required as a condition of eligibility for TA to attend a group recertification. However, where the session is held on the second floor of a building without elevator access, and where the recipient has a physical impairment that limits his/her mobility, the recipient has good cause for not completing his/her recertification in the manner assigned by the district. In these instances, districts must offer to make alternative arrangements to conduct the recipient's recertification.

The use of a modification or accommodation offered by the district to provide meaningful program access under the ADA is the choice of a person with a disability and not an essential eligibility requirement for the program(s) administered by the district. In some circumstances, an applicant/recipient may fail to complete an essential program eligibility requirement by intentionally declining to make use of a reasonable accommodation. In cases where the refusal to accept reasonable accommodations may result from the person's inability to recognize or acknowledge the existence of his/her disability, the district may need to seek involvement from a mental health professional or other qualified staff if the applicant/recipient does not appear to understand the consequences (such as denial of benefits or sanction) of his/her action when he/she refuses to make use of the reasonable accommodation to facilitate compliance with essential program eligibility requirements. In such cases, the refusal of the

[2] A determination that reasonable accommodation is required is not a determination of disability for any other purposes, e.g., employment exemption.

accommodation and/or any intervention attempt(s) must be documented before the district takes the appropriate negative case action. Districts should consider referral to adult protective services or other resources or services that may be of assistance to such persons.

C. Requirements Pertaining to Access by Persons with LEP.

Districts must continue to post the "Interpreter Services Poster" (PUB-4842) in all TA, MA and FS Benefits client areas. To assure that the most current version of the "Interpreter Services Poster" is posted, districts must order the 6/04 poster as soon as possible. Districts should also order, and make available to their workers in all program areas, the 6/04 version of the "Interpreter Services Desk Guide" (PUB-4843).

D. Inquiries for Information and Complaints

1. Inquiries – 18 NYCRR includes provisions that districts must comply with as follows:

- Part 356.1(a) defines an inquiry as any request for information that does not constitute an application for public assistance or care other than a complaint as defined in Section III.B.13 above.

- Part 356.2(a) requires districts to answer all inquiries promptly. If districts do not have the information requested, they should acknowledge the request and refer the person to the appropriate source for reply.

- Part 355.1(a)(6) specifies that districts are responsible for providing information to applicants and recipients of public assistance or care and are prohibited from discriminating against anyone making the inquiry based on race, color, religion, national origin, age, sex, handicap (physical or mental impairment) or marital status.

- Part 355.1(b) and 45 CFR Part 84, which was issued to effectuate section 504 of the Rehabilitation Act of 1973, requires districts to provide information in a manner that is accessible to visually impaired or blind and hearing impaired or deaf applicants and recipients.

- Part 355.2(a) requires districts to promptly give a copy of the appropriate information pamphlet to each person who inquires or applies. An example of an informational pamphlet that must be provided is: LDSS 4148A "What You Should Know About Your Rights and Responsibilities". A list of additional informational pamphlets is provided in Section VII, Additional Resources, below.

2. Complaints – Districts must investigate complaints of discrimination or improper case administration. Districts should make reasonable efforts to inform applicants/recipients with a disability and/or LEP of such complaint procedures. Districts also are responsible for ensuring that staff understands such agency procedures. In addition, districts must post procedures for filing discrimination

complaints in a conspicuous manner and must list those agencies or persons that will handle complaints, e.g., local commissioner, New York State Division of Human Rights.

When a complaint has been referred by the Office to a district, a report shall be submitted within 20 days of the date of such request and shall cover fully all matters pertaining to the complaint, as required by 18 NYCRR Part 356.3(e). If the time limit cannot be met, an interim report should be sent. The Office may provide feedback to the district concerning any matters covered in the report pertaining to the complaint, and may undertake further review of the complaint, in consultation with the district, if determined necessary.

Regarding complaints of denial of access by persons with disabilities, districts must publish their procedures that provide for prompt and equitable resolution at the local level of complaints alleging any violation of Title II of the ADA. For disability-related complaints concerning the Office's programs, districts must submit a copy of such complaints, and the district's determination thereon, to the Office's Bureau of Equal Opportunity Development (BEOD). In addition, persons may file administrative complaints under Title II of the ADA with an appropriate federal agency or bring a lawsuit in federal district court. Complainants are not required to exhaust the district's internal complaint procedures before filing a complaint with a federal agency.

Districts should document and record investigations of discrimination complaints and their findings. Where such complaints are founded, districts should take appropriate remedial action both to resolve the complaint and to retrain staff regarding their responsibilities. Districts should take appropriate corrective actions when staff discriminates against applicants/recipients of TA, FS and HEAP.

LDSS-4148A includes a section entitled "NONDISCRIMINATION RIGHTS" (see http://sdssnet5/otda/ldss_eforms/eforms/4148A.pdf). This section provides the following information to applicants/recipients regarding discrimination complaint procedures:

- *Discrimination by the New York State Office of Temporary and Disability Assistance (OTDA), by the New York State Department of Health, by the New York State Office of Children and Family Services, by the New York State Department of Labor[3] or by your local Department of Social Services based on race, religion, ethnic background, marital status, disability, sex, national origin, political belief or age is illegal.*

- *If you think you have been discriminated against in a Temporary Assistance Program, which includes Family Assistance and Safety Net Assistance, or*

[3] Part C of Chapter 57 of the Laws of 2005 transferred the functions, powers, duties and obligations of DOL concerning the employment placement and training programs for applicants for and recipients of public assistance, FS and individuals eligible for non-assistance services to the Office.

that your case has been handled improperly due to some type of discrimination, you can complain by calling or writing to the Bureau of Equal Opportunity Development (BEOD). [4]

- *If you think you have been discriminated against in the Food Stamp Benefits Program, you can complain by writing to the USDA.*

  Your discrimination complaint will be investigated, and you will be told in writing of the findings.

- *If you think you have been discriminated against on the basis of disability, you can complain by writing to Disability Rights Section.*

  Your discrimination complaint will be investigated, and you will be told in writing of the findings.

- *If you think you have been discriminated against in the Medical Assistance Program, you can complain by calling or writing to Human Resources Group, New York State Department of Health.*[5]

- *If you feel you have been discriminated against in TA, FS, and their related employment programs, Medical Assistance, Services or Child Care you can contact the Division of Human Rights.*[6] *You can also call or write to one of the regional offices of the New York State Division of Human Rights, which can be found in the Government pages of the telephone book. Some cities and counties in New York State also have human rights commissions that investigate discrimination complaints. Check your telephone book for a listing.*

Districts must comply with the requirements of 18 NYCRR Part 356 outlining a district's responsibility to respond to complaints by or on behalf of an applicant for or recipient of TA, FS or HEAP. This requirement does not include complaints arising from issues for which there is a scheduled fair hearing.

Procedures for handling complaints under the Food Stamp program are the most comprehensive and strictly prescribed by Federal authorities. Food Stamp complaint procedures are outlined in 03 LCM-3, Food Stamp Program Civil Rights Complaint Procedures and displayed on LDSS-8036, Food Stamp Complaint Procedure poster.

For all other programs, districts may use Food Stamp complaint procedures, but have the discretion to implement other appropriate complaint procedures, (except where the complaint includes an allegation of discrimination in relation to food

[4] BEOD will refer the complaint to the local district for investigation, and send a copy of the transmittal letter to the complainant.

[5] The ADA Title II Coordinator for the New York State Department of Health is Anna Colello, who is the contact for making an ADA related complaint involving Medicaid.

[6] Although LDSS 4148A directs applicants/recipients to the Division of Human Rights, the Human Rights Law does not cover all types of applicant/recipient complaints.

stamps). At a minimum, complaint procedures for all other programs must ensure that reasonable procedures have been developed and are in effect to investigate complaints of denial of access by persons with disabilities and/or LEP, as is required by 18 NYCRR 356.3.

VI. Required Action

A. Scheduling Considerations for Persons with Disabilities and/or LEP. When an appointment is rescheduled for a person with a disability and/or LEP because reasonable accommodations cannot be made or no interpreter is available on the date the application is filed, the delay does not affect the application filing date or any other dates relevant to the processing of applications. Districts must also assure that emergency/immediate needs are addressed as may be appropriate to the case.

B. Access by Persons with Disabilities.

Districts should assign a staff person to serve as an ADA contact, who will be responsible for monitoring investigation and resolution of complaints and for overseeing procedures that ensure access to benefits, programs and services, and that meet the requirements described in this directive operationally.

Districts must provide qualified persons with disabilities an equally effective opportunity for access to, and participation in, programs, services and benefits when the person has a disability as defined under the ADA and in Section III. A above. Districts also must assist applicants/recipients to meet eligibility requirements by eliminating non-essential procedures or rules that deny a person with a disability an equal opportunity to participate in the district's programs, services and benefits. For example, if a district's procedure requires a person to travel from one office to a second office in order to comply with child support standards or rules, the district may need to accommodate the person by bringing a child support worker to the first location, rather than requiring the person to travel to a second, inaccessible location. Although the district may modify non-essential procedures, the district may not eliminate the actual child support requirements solely because the person has a disability.

Districts must make reasonable accommodation to the known physical or mental limitations of otherwise qualified applicants/recipients with disabilities unless the district can show that the accommodation would impose an undue financial and administrative burden on the operation of its program. Districts may request that an applicant/recipient provide appropriate documentation where the disability is not readily apparent. Districts may deny reasonable accommodation, when the applicant/recipient, after being given reasonable opportunity, fails or refuses to comply with the request to provide appropriate documentation where the disability is not readily apparent. Programs and services should be provided to all applicants/recipients in the same manner or location, unless separate or different measures are necessary to ensure equal opportunities for individuals with disabilities. Programs that provide special benefits to people with disabilities are permitted but people with disabilities cannot be compelled to participate in those programs.

A district need only make reasonable modifications in its policies, practices, or procedures, to assure that otherwise eligible persons are not denied needed benefits, programs and services. If the district can demonstrate that a modification would fundamentally alter the nature of its benefits, programs and services, it is not required to make the modification. For example, if a district issues food stamp benefits using the Electronic Benefit Transfer system and has no authority to issue the benefits as cash, the district is not required to alter its FS program to provide food stamp benefits in cash to accommodate a request made by a recipient with a mental impairment who is afraid to access benefits electronically. A reasonable modification to accommodate the recipient's disability may be made by using an alternative payee arrangement.

Persons with disabilities must have access to district offices. If there are barriers in the district's buildings that would hinder access, alternative means of access must be available, whether these are alternate entrances and offices or alternate places for conducting interviews. A district may, however, pursue alternatives to structural changes in order to achieve program accessibility. For example, where the second-floor office of a district is entered only by climbing a flight of stairs, a person with a mobility impairment or phobia who is seeking information about, or seeking to apply for benefits, programs and services can be served in an accessible ground floor location or in another accessible building.

Districts must ensure that their communications with persons with disabilities are as effective as communications with others. Districts must provide the necessary auxiliary aids and services, as defined in Section III. A. 9 above, to ensure effective communication, when persons with disabilities seek to access benefits, programs and services provided by the district. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length and complexity of the communication involved and may be determined on a case-by-case basis.

For persons with vision impairments, the use of magnifying lenses, qualified readers, taped texts, audio recordings, Braille materials, or large print materials may be useful for transactions that involve complex or extensive communications. Where a district provides information in written form, it must, when requested, make that information available to persons with vision impairments in a form that is usable by such persons. The requirement for effective communication does not mean that a district must put all of its documents in Braille. The requirement for effective communication means that a district must provide information in Braille, where feasible, or in another comparable format that is usable by persons with vision impairments, as determined appropriate by the district in the particular circumstances.

Districts are not required to have a sign language interpreter present every time they deal with a person who is deaf or hearing impaired. For applicants/recipients who are hearing impaired or deaf, the type of auxiliary aid or service necessary to ensure effective communication may vary in accordance with the length and complexity of the communication involved. More complex or extensive communications may require the use of qualified interpreters, assistive listening systems, videotext displays, or other aids or services.

District staff may communicate with persons who have hearing impairments through written materials and the exchange of written notes. For persons with vision impairments, district staff may provide oral directions or read written instructions. In many transactions, such as filing applications, communications provided through such simple methods are as effective as the communications provided to other persons in similar transactions.

Districts that communicate by telephone must provide equally effective communications with persons with disabilities, including persons with hearing and speech impairments. Districts are not required to have Telecommunications Devices for the Deaf (TDD's) to communicate with people who have hearing or speech impairments. Telephone relay services generally may be used to provide equally effective communications. Such services are available Statewide. Relay services involve a relay operator who uses both a standard telephone and a TDD to type the voice messages to the TDD user and read the TDD messages to the standard telephone user. Where a district uses such services, staff must be instructed to accept and handle relayed calls in the normal course of business.

Districts must document in the case file that the applicant/recipient needs reasonable accommodation, so that an interpreter or other appropriate auxiliary aids and services can be scheduled for any future appointments.

C. Access by Persons with LEP.

Districts should assign a staff person to serve as an LEP contact, who will be responsible for monitoring investigation and resolution of complaints and for overseeing procedures that ensure access to benefits, programs and services, and that meet the requirements described in this directive operationally. (Districts may assign the same staff person to serve as the ADA and LEP contact.)

No person shall be denied access to an application for benefits, programs or services based on a district's inability to provide adequate interpretation services. Persons with LEP must be able to apply without undue hardship.

If an applicant/recipient is a person with LEP, the district is responsible for obtaining a qualified interpreter. District staff should be reminded that an applicant/recipient has the choice to use a relative or friend as an interpreter. If the applicant/recipient does not choose this option or no bilingual staff interpreter is available, the district must set up an appointment for the applicant/recipient to return and must arrange for an interpreter or other interpretive services, e.g., Language Line Services, to be available at the appointment. However, applicants/recipients are not required to bring their own interpreter, and no person may be denied access to benefits, programs or services because of a district's inability to provide adequate interpreters. Districts must protect the filing or application date, as noted in VI. A., and continue to adhere to application interview time frames as required by each program area. Districts should document in the case record: (1) if an interpreter was requested by the applicant/recipient and if so, the date the interpreter was requested; (2) if the district offered to provide an interpreter without the applicant/recipient having made a request for such services; (3) whether the applicant/recipient agreed to use the interpreter provided by the district and if the

applicant/recipient agreed to use such an interpreter, how the services were or will be provided; (4) if the applicant/recipient declines/refuses to use the district's interpreter or interpreter services and brings his or her own interpreter.

When an applicant/recipient with LEP calls or visits the district office in person the district must:

- Ask the person what language he/she speaks (many persons know English well enough to answer the question);

- If the person is unable to answer the question, attempt to identify the applicant's/recipient's language by having him/her point to the language on a poster or Interpreter Services Desk Guide;

- Once the language is identified, solicit (if available) the aid of an on-site bilingual staff person to assist as an interpreter. The district should not seek the aid of a bilingual applicant or recipient. Relatives or friends of the applicant/recipient may be used if the applicant/recipient requests and the district determines that the relative or friend is capable of interpreting;

- Refer to the district's specific procedure for providing access to LEP persons if no qualified interpreter is available on-site;

- Be sure that the applicant/recipient understands the date, time and location of the new appointment if a return appointment is required;

- Address any emergency/immediate needs prior to scheduling a return appointment;

- Document in the case record the language of the LEP person, whether the LEP person chose to use his/her own interpreter, and/or whether a request for an interpreter was made, so that an interpreter can be scheduled, if necessary, for any future appointments;

- Document each attempt to contact an interpreter and if the interpreter appeared in person or by telephone.

VII. Systems Implications

There are no systems implications.

VIII. Additional Resources

Resources Available from the Office:

- Questions concerning the ADA may be directed to the Office's ADA Coordinator, Mr. Larry Ritter, Director, BEOD, 40 North Pearl Street-16 D, Albany, New York 12243; [telephone (518) 473-8555; e-mail larry.ritter@otda.state.ny.us].

- Legal questions concerning the ADA may be directed to Ms. Linda Hunt, Counsel's Office, 40 North Pearl Street-16C, Albany, New York 12243; [telephone (518) 474-9777; e-mail linda.hunt@otda.state.ny.us].

- Technical questions concerning LEP may be directed to Mr. Lynn Stone, Executive Deputy Commissioner's Office, 40 North Pearl Street-9C, Albany, New York 12243; [telephone (518) 402-3417; e-mail lynn.stone@otda.state.ny.us].

- Policy questions concerning LEP may be directed to Ms. Malinka Gutierrez, Counsel's Office, 40 North Pearl Street-16C, Albany, New York 12243; [telephone (518) 474-9496; e-mail malinka.gutierrez@otda.state.ny.us].

- Questions concerning ordering forms and documents should be directed to Document Services, which maintains the Local District Forms and Publications Catalog, Pub-4767. If you have any questions about how to order a specific document, please call Document Services [telephone 1-800-343-8859, ext. 4-9522; or (518) 486-6302; or (518) 402-0159].

- Requests for printed copies of the following documents should be submitted on OTDA-876 "Request For Forms or Publications" form, and should be sent to:

Office of Temporary and Disability Assistance
BMS Document Services and Operational Support
P.O. Box 1990
Albany, New York 12201

- Documents also may be ordered through Outlook. To order the forms you must obtain an OTDA-876 electronically by going to the OTDA Intranet Website at http://otda.state.nyenet/ then to Division of Program Support & Quality Improvement page, then to PSQI E-Forms page (this page contains the electronic OTDA-876).

- For those who do not have Outlook but who have Internet access for sending and receiving email, the Internet email address is: gg7359@dfa.state.ny.us. For a complete list of available forms, please refer to OTDA Intranet site: http://otda.state.nyenet/ldss_eforms/default.htm

Relevant Publications and Forms:

- LDSS-4148A: What You Should Know About Your Rights and Responsibilities *****.
- LDSS-4148B: What you Should Know About Social Services Programs*
- LDSS-4148C: What You Should Know If You Have An Emergency*
- LDSS-8036: Food Stamp Complaint Poster
- PUB-4842 Language Poster (6/04)
- PUB-4843 Interpreter Services Desk Guide (6/04)
- PUB-4702E: NYS Wants You To Know About Food Stamps Tear Off Poster (English) (9/00)
- PUB-4702E/S: NYS Wants You To Know About Food Stamps Tear Off Poster (English/Spanish) (9/00)
- FORM AD-475B**:** USDA Form "And Justice For All" (12/99) (Published by USDA).

*****This informational booklet is available in nine languages in addition to English. The languages are listed alphabetically below, followed by a two-letter language code: Arabic (AR), Chinese (CH), Haitian-Creole (HA), French (FR), Korean (KO), Russian (RU), Spanish (SP), Vietnamese (VI), and Yiddish (YI). The two-letter code follows the form or publication number of translated documents and identifies the language of the publication. For example, the LDSS-4148A in Spanish, Arabic and Chinese are listed as LDSS-4184A-SP, LDSS-4148A-AR, and LDSS-4148A-CH, respectively.

Self-Evaluation

In assuring that TA, FS and HEAP are delivered in a manner compliant with the requirements of Office regulations and in compliance with federal requirements of the ADA, a self-evaluation review form was developed (Attachment 1). The completion of the form and correction of any deficiencies is mandated.

Prior to the issuance of this directive, the self-evaluation form was sent to each district. Districts were asked to return the completed form by November 23, 2004. The Division of Employment and Transitional Supports (DETS) will notify the Commissioner of any district which has not returned the completed self-evaluation form, or has not presented a corrective action plan for any deficiency found. Only districts that are contacted by DETS will have to take action on the mandate to complete the self-evaluation.

Additionally, DETS periodically conducts random compliance reviews using this instrument to assure that districts are meeting ADA requirements.

DTA may require that districts redo and submit the self-evaluations on a schedule to be determined but no more frequently than once in a two year period.

More information on the requirements of Title II of the ADA may be found on the Internet at the U.S. Department of Justice ADA Home Page at www.ada.gov.

IX. Effective Date

The provisions of this directive are effective immediately.

Issued By_____

Name:	**Russell Sykes**
Title:	**Deputy Commissioner**
Division/Office:	**Division of Employment and Transitional Supports**

(Attachment 1)

(Rev. 03/05)

AMERICANS WITH DISABILITIES ACT (ADA)/LIMITED ENGLISH PROFICIENCY (LEP)
Self-Evaluation Form

District _____ Form completed by: _____ Phone #: _____

Access – ADA

1. Do you have an ADA contact person within DSS who is responsible for social services program access and for the taking and resolution of complaints from applicants/recipients (A/Rs)?

   ____ Yes ____ No (*)

2. If yes to #1, who is your ADA contact? _____.

   Please provide the ADA contact's telephone # _____.

3. a. Has your district done a self-evaluation of program access by A/Rs with disabilities?

   Yes ____ (Please attach a copy of the report) No ____(*)

   b. Were deficiencies found in the self-evaluation?

   Yes ____ (go to c.) No _____ (Go to #4)

   c. Were corrective actions taken?

   Yes _____ (Please attach copy of the corrective action plan) No _____ (*)

4. Do you have a written procedure for handling complaints from applicants/recipients who claim to have been denied access to social services programs due to a disability?

   Yes ____ (Please attach copy) No ____ (*)

5. Do you provide applicants/recipients (A/Rs) for social services programs with information about the ADA's prohibitions against discrimination?

   Yes ____ (Please attach copy) No ____

6. Reasonable accommodation means an adaptation or alteration that gives an A/R with disabilities meaningful access to social services programs. Do you have written reasonable accommodation procedures?

   Yes ____ (Please attach copy) No ____ (*)

7. Do you have a procedure to insure that the A/R who is offered reasonable accommodation, but refuses, understands the consequences of that refusal?

   Yes ____ (Please attach copy) No ____ (*)

Access – General Disabilities

1. a. Are your facilities accessible to, and usable by, individuals with disabilities?

   Yes ____ No ____

   b. Are your parking areas and sidewalks accessible to, and usable by, individuals with disabilities?

   Yes ____ No ____

   c. Is the entrance wheelchair accessible?

   Yes ____ No ____

   d. Are bathrooms and drinking fountains wheelchair accessible?

   Yes ____ No ____

   e. Are areas such as the photo ID/finger imaging areas wheelchair accessible?

   Yes ____ No ____

   f. If No to e., are alternate accessible sites available?

   Yes ____ No ____

   g. If the client area is above or below the 1st floor, are there elevators?

   Yes ____ No ____ 1st floor only ____

h. If No to g., are services available at alternate accessible sites?

Yes ____ No ____ (*)

2. In social services districts with more than one district office, are all district offices accessible according to #1. a – e above.

____ Yes ____ No (go to #3)

3. When one or more district office is not handicap accessible, is reasonable accommodation offered?

____ Yes (attach copy of reasonable accommodation plan, or specify) _____
____ No (*)

4. Do you have procedures for determining when home visits will be provided for A/Rs who are physically or mentally unable to travel to the office/center?

____ Yes (go to #6) ____ No (*) (go to #5)

5. If No to #4, what alternate accommodations are provided? _____
_____ .

6. Are the home visit or alternate accommodations procedures in writing?

____ Yes (please attach a copy – go to #7) ____ No (*) (go to #7)

7. How is the district's policy regarding home visits or alternate accommodations conveyed to A/Rs?
_____.
(Go to #8)

8. How is the district's policy regarding home visits or alternate accommodations conveyed to the appropriate LDSS staff?
_____ .

Access – Visually/sight Impaired

1. a. Are there signs in Braille for the visually/sight impaired?

Yes ____	No ____	Men's and Women's rooms
Yes ____	No ____	Room Numbers
Yes ____	No ____	Exits
Yes ____	No ____	Permanent Rooms and Spaces
Yes ____	No ____	Elevators

b. If NO to any of the above, how does the visually impaired person find a necessary location?

_____ .

2. Do you have procedures in place for A/Rs who, due to visual impairment, are unable to read the application, information booklets, notices, etc.?

Yes ____ (Please provide copy) No _____ (*)

Access – Mental Impairment

1. Do you have procedures in place to assist a mentally impaired A/R?

Yes ____ (Please provide copy) No _____ (*)

Access – Hearing Impaired

1. Do you have procedures in place to assist hearing impaired A/Rs?

Yes ___ (Please provide copy) No _____ (*)

2. Is a sign-language interpreter provided?

Yes ____ No ____ (*)

3. Does the office/agency have TTY/TTD equipment or New York Relay Services available?

Yes ____ (Type of Service: _____) No _____

Access – Limited English Proficiency

1. Do you have procedures to assist limited or non-English speaking A/Rs?

Yes ____ (Please provide copy) No ____ (*)

2. Are the following available in other than English language?

Signs	Yes ____ No ____
Posters	Yes ____ No ____
Pamphlets	Yes ____ No ____
Other client handouts:	Yes ____ (Describe: _____) No ____

3. a. Is the “Interpreter Services Poster” (PUB-4842) displayed in the waiting area?

   Yes ____ No ____ (*)

   b. Is the recommended 6/04 version of the “Interpreter Services Desk Guide” (PUB-4843) and/or the optional language palm cards used? Yes ____ No ____

(*) Answers with (*) will require a corrective action plan to be submitted within sixty days of the date that this form is due to the returned to the Division of Employment and Transitional Supports (DETS).

Appendix F

UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

Office of Fair Housing and Equal Opportunity

VOLUNTARY COMPLIANCE AGREEMENT

Under

Title VI of the Civil Rights Act of 1964

Thuch Chang

v.

Revere Housing Authority

HUD CASE # 01-02-0001-6

Prepared by: JOHN A. GEISS, Civil Rights Analyst

COPY

INTRODUCTION

On October 2, 2001 Complainant Thuch Chang filed with the United States Department of Housing and Urban Development (hereinafter "HUD", or "Department") a formal complaint alleging that Respondents Revere Housing Authority (hereinafter "RHA"), and RHA Executive Director Andrew Procopio, Jr. engaged in conduct constituting a violation of Title VI of the Civil Rights Act of 1964 ("Title VI"). The specific Title VI issue presented for review and resolution was the following: whether Chang was, and/or RHA program participants and applicants were, denied an equal opportunity to benefit from RHA program or services based on national origin. It was alleged that Chang and other persons of limited English proficiency were denied meaningful language assistance. The Title VI claim was assigned Case # 01-02-0001-6.

Under Title VI of the Civil Rights Act of 1964 ("Title VI") (42 U.S.C. 2000d):

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The Title VI case having been resolved between RHA and the Department without the investigation having been completed and any Letter of Finding issued, RHA and the Department herewith enter into the following agreement in order to affect a final closure of this matter.

GENERAL PROVISIONS

1. This agreement, as of its effective date, shall constitute the basis for a closure of HUD Case # 01-02-0001-6.

2. This agreement does not constitute an admission by Respondent Revere Housing Authority, nor does it constitute a finding by HUD, that, as to the facts and circumstances underlying HUD Case # 01-02-0001-6, there was any violation of Title VI or any other federal law.

3. HUD, through its Secretary or his or her designee, shall have the power to determine whether and to what extent there has been compliance with the terms and conditions of this agreement. Accordingly, HUD may require written reports concerning compliance, inspect the subject premises, examine witnesses, and examine and copy pertinent records and other documentation maintained by the RHA.

4. No promises, agreements, or other inducements of any kind have been made to, by, or with the parties hereto, including HUD, other than as contained or reflected herein, to cause them to enter into this agreement. The parties represent and specifically state that each has read and understands the terms, provisions, and other contents hereof, and freely and voluntarily assent to same. RHA represents and specifically states that it has had adequate opportunity to fully discuss and review this document with an attorney of its choice.

5. RHA agrees that it will not, directly or indirectly, coerce, intimidate, threaten, interfere with, or otherwise retaliate against the Complainant, or any other person, in the exercise or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected under any civil rights law as to which the Department has enforcement responsibilities.

6. If any provision of this agreement is found to be illegal or otherwise invalid by any court of competent jurisdiction, such a determination shall not affect the remainder of the agreement

7. Duplicate Originals. This document may be signed in counterpart, and, upon proper execution of duplicate originals by all necessary parties, the original signature of all such parties will be deemed to have been affixed to all such originals.

8. Effective Date: The effective date of this agreement shall be the date of execution of this document by a duly-authorized representative of the Department, which such execution will occur concurrently with or following, and not before, execution by all other parties.

SPECIFIC RELIEF

9. RHA agrees to formally adopt, upon the effective date of this agreement, the policy document captioned "Policy for Language Assistance Services" ("Policy"), a copy of which is attached hereto as Exhibit "A." Further, RHA shall, by not later that March 1, 2004, have prepared, or caused to have had prepared, related documentation as more particularly referenced in the Policy

10. As of the effective date hereof, and subject to performance by RHA of its obligations as set forth in Paragraph 9 above, HUD will undertake the process of closure of Case # 01-02-0001-6. It is fully understood by the parties, however, that in the event the Department finds that RHA has failed to comply with the terms of this agreement, it shall notify RHA of such non-compliance, and may proceed with enforcement as authorized under Title 24, Code of Federal Regulations, Section 1.8.

Dated: 5-17-04

Revere Housing Authority

BY: _____
Andrew J. Procopio, Jr, Executive Director

Dated: 6/1/04

U.S. Department of Housing and
Urban Development
Office of Fair Housing & Equal Opportunity

BY: _____
Marcella O. Brown, Director,
New England Hub

REVERE HOUSING AUTHORITY
POLICY FOR LANGUAGE ASSISTANCE SERVICES

Preface

The Revere Housing Authority (RHA) acknowledges the existence of a legal requirement, based on Title VI of the Civil Rights Act of 1964 and implementing regulations issued by the Department of Housing and Urban Development, not

> ....utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or natural origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity as respect to persons of a particular race, color, or natural origin.

See 24 CFR 1.4(b)(2)(i). With respect to persons of limited English proficiency, this means taking reasonable steps to provide meaningful access to its housing programs, services, and activities, both as to existing as well as potential participants/recipients.

1. POLICY

RHA recognizes the special needs of individuals who are members of linguistic and cultural minority groups and are limited English proficient (LEP). Such persons, for purposes of this policy, are defined as follows: a person who does not speak English as his or her primary language, and who has a limited ability to read, write, speak, or understand English. RHA understands that LEP individuals may require language assistance in settings involving the provision of its services and administration of its programs and activities. It is, therefore, RHA policy to have a system designed to provide its staff with access to interpreter and translator services during all hours of operation. This policy sets forth guidelines and procedures for the use of language services.

2. PROCEDURE

2.1 *ASSESSMENT AND PRIMARY LANGUAGE IDENTIFICATION*

Staff members should find out as soon as possible whether a person who is to receive RHA services, or who my become a participant in any program or activity undertaken or administered by RHA, is a LEP person, and, if so, that person's primary language. Under ordinary circumstances, this assessment should take place at the point of initial contact with RHA. Ordinarily, staff will rely on that person's own assessment of his or her English proficiency. Staff should not feel uncomfortable about making inquiries about a person's language proficiency.

"A"

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Attached as Appendix "A" is a language identification card which should, in the absence of other reliable information source, be used to identify a person's language.

2.2 *RECORDING OF LEP INFORMATION*

To the extent feasible, the primary language of every LEP program or service participant or recipient, or potential participant or recipient, shall be recorded in a separate record ("log") kept for this purpose, as required by Paragraph 4 below, as well as in such business records as are normally and regularly maintained by RHA—but in a fashion that renders the notation distinctive from other content entered into such record.

2.3 *INFORMED RIGHT TO PHA-PROVIDED INTERPRETER*

A. When a person is first assessed as being LEP, staff will inform the person of his or her right to have a language interpreter at no cost to him or her. Attached is Appendix "B" is a procedures explanation sheet titled "What if I don't speak English." If the LEP person is literate in one of the languages in which the notice is translated, the person will be given a copy of the notice in the appropriate language. If the LEP person is not literate in one of these languages, staff will arrange to have the contents of the notice communicated to the LEP person through an RHA-provided interpreter or telephone interpreter service. If the person has expressly declined RHA's offer of assistance, the contents of the notice may be communicated through another person acting as an interpreter.

B. In any subsequent interaction between the LEP person and RHA involving a new or different service, program, or activity, staff, upon initial encounter with the person, shall verify that he or she has received the Appendix "B" notice in his or her primary language or had its contents orally communicated through an interpreter.

2.4 *USE OF FAMILY MEMBERS OR OTHERS AS INTERPRETERS*

A. If the LEP person expressly declines RHA's offer of an interpreter, and instead requests that a family member, companion, advocate, friend, or other person be used to facilitate communication, such other person may be used, provided that staff first makes a reasonable determination that the person requested by the LEP person is willing, and able, to provide effective communication.

B. Staff should be alert to situations in which the use of a family member or friend as interpreter might invade the LEP person's privacy or interfere with communication of information.

C. In all instances where interpretation services are to be provided by family member or other non-RHA-provided service, staff shall make a notation, in a separate record kept for this purpose alone and, if available, also in the person's individual file, recording: 1) that an offer of an interpreter was made and expressly declined, 2) the name of the person acting as interpreter, and 3) that the LEP person can change his or her mind at any later time and request the assistance of RHA-provided interpreter services.

D. Absent urgent circumstances, the use of minors as interpreters should be avoided unless the communication is limited to simple, straightforward matters such as scheduling an appointment or confirming an address or telephone number.

E. In the event staff comes to believe that a LEP person's preferred interpreter is hampering effective communication between RHA and the LEP person, RHA shall, at its instigation, and regardless of the fact that its offer of interpreter service may have been declined, provide interpreter services.

2.5 *CIRCUMSTANCES REQUIRING INTERPRETER SERVICES*

Interpreter services should be utilized in all circumstances where necessary for effective communication in connection with the providing of service, or administration of a program or activity, by RHA. Examples of such circumstances are the following:

-Housing Application Review
-Lease Briefing Session
-Recretification Interview
-Hearings/Private Conferences
-Other circumstances on an as needed basis

2.6 *PROMPT CALL FOR INTERPRETERS*

Upon completion of the assessment of a person's English language proficiency an the making of the determination that such person is a LEP person, and provided that such person has not expressly declined an offer of a RHA-provided interpreter, staff should schedule or, if the person is physically present face-to-face with staff, promptly call for, an interpreter to be provided from the resources identified in section 2.8 below.

2.7 *EMERGENCIES*

In an urgent situation, and where use of a telephonic interpreting service is not available or appropriate, staff should use their best efforts to provide the most effective communication possible until such time as a language interpreter arrives.

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2.8 *INTERPRETER/TRANSLATOR SERVICES RESOURCES*

-Jewish Family Services, Swampscott
-World Language Services, Lynn
-The Translation Professionals, Wellesley Hills

2.9 *TRANSLATING WRITTEN COMMUNICATIONS*

A number of commonly used RHA forms have been translated into the predominate languages into which the Appendix "B" notice has been translated. When it is necessary to convey information contained in a document and no translated version is available, staff shall arrange to have an in-person or telephonic interpreter provide an oral translation.

2.10 *ADDITIONAL TRANSLATIONS OF WRITTEN MATERIALS*

RHA will have its written materials printed in foreign languages when it can reasonably be determined that a printed translation is necessary to ensure that LEP persons are not excluded from or denied equal access to PHA services, programs, and activities. Staff who identify other written materials that might be appropriate for translation should contact supervisory personnel for guidance.

2.11 *COMPETENCY OF INTERPRETERS AND TRANSLATORS*

RHA will develop and implement a procedure for assessing and evaluating the competency level for all persons who are employed or otherwise act on its behalf as interpreters and translators. RHA will ensure that all persons on its list of interpreters/translators have been appropriately trained regarding the role of the interpreter, the ethics of interpreting, the need to maintain confidentiality, and, in the case of translators, the ability to read and write.

3. STAFF TRAINING

RHA will, by not later than February 1, 2004, train appropriate existing staff on RHA procedures for serving LEP persons. This training will include the following: the importance of effective communication with LEP persons, when and how to obtain qualified language assistance, use of interpreters when staff make or receive telephone calls, and record-keeping procedures. New hires will receive the training as soon as practicable after the date of hire.

4. SELF-MONITORING

RHA will develop and maintain a log of interpreter services requested and provided, such log to show the following:

- Primary language of the person requesting or otherwise receiving language services;
- Reason for/purpose of a request for interpreter services;
- Source of interpreter services;
- Name of interpreter;
- Where no interpreter is provided, the reason why, and attempts made by RHA and/or others to obtain an interpreter

5. QUESTIONS AND COMPLAINTS

5.1. HOW TO OBTAIN FURTHER INFORMATION

For information packets, forms, billing or any other information about language assistance, RHA may be reached at: 781-284-4394.

5.2. Where to Direct Problems or Complaints

Any person having questions or concerns about the availability or adequacy of interpreter services and/or translated documents with respect to services, programs, and activities undertaken or administered by RHA, may contact RHA at: 781-284-4394.

Any person who wishes to file a complaint regarding such matters shall be provided any paperwork concerning RHA grievance procedures (or any such similar dispute resolution process), as well as a copy of the U.S. Department of Housing and Urban Development brochure entitled "Are you a Victim of Housing Discrimination," and HUD's Complaint Hotline telephone number: 1-800-827-5005. This material will be in the language in which that person speaks, if a translation is available; if no such translated version is available, the person shall be directed to contact HUD at: 1-800-827-5005.

EFFECTIVE DATE: February 15, 2004

Andrew J. Procopio, Jr.
Executive Director
Revere Housing Authority

United States Census 2000

U.S. Department of Commerce
Bureau of the Census

LANGUAGE IDENTIFICATION FLASHCARD

☐ املأ هذا المربع اذا كنت تقرأ أو تتحدث العربية.	Arabic
☐ Խնդրում ենք նշում կատարեք այս քառակուսում, եթե խոսում կամ կարդում եք հայերեն:	Armenian
☐ যদি আপনি বাংলা পড়েন বা বলেন তা হলে এই বাক্সে দাগ দিন।	Bengali
☐ សូមបញ្ជាក់ក្នុងប្រអប់នេះ៖ ប្រសិនបើអ្នកអាន ឬនិយាយភាសា ខ្មែរ។	Cambodian
☐ Matka i kahhon komu un taitai pat un sang i Chamorro.	Chamorro
☐ 如果您具有中文閱讀和會話能力，請在本空格內標上X記號。	Chinese
☐ Make kazye sa a si ou li oswa ou pale kreyòl ayisyen.	Creole
☐ Označite ovaj kvadratić ako čitate ili govorite hrvatski jezik.	Croatian (Serbo-Croatian)
☐ Zaškrtněte tuto kolonku, pokud čtete a hovoříte česky.	Czech
☐ Kruis dit vakje aan als u Nederlands kunt lezen of spreken.	Dutch
☐ Mark this box if you read or speak English.	English
☐ اگر خواندن ونوشتن فارسی بدرهستین، این مربع را علامت بگذارید.	Farsi

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☐ Cocher ici si vous lisez ou parlez le français.	French
☐ Kreuzen Sie dieses Kästchen an, wenn Sie Deutsch lesen oder sprechen.	German
☐ Σημειώστε αυτό το πλαίσιο αν διαβάζετε ή μιλάτε Ελληνικά.	Greek
☐ अगर आप हिन्दी बोलते या पढ़ सकते हों तो इस गोले पर चिह्न लगाएँ।	Hindi
☐ Kos lub voj no yog koj paub twm thiab hais lus Hmoob.	Hmong
☐ Jelölje meg ezt a kockát, ha megérti vagy beszéli a magyar nyelvet.	Hungarian
☐ Markaam daytoy nga kahon no makabasa wenno makasaoka iti Ilocano.	Ilocano
☐ Marchi questa casella se legge o parla italiano.	Italian
☐ 日本語を読んだり、話せる場合はここに印を付けてください。	Japanese
☐ 한국어를 읽거나 말할 수 있으면 이 칸에 표시하십시오.	Korean
☐ ໃຫ້ໝາຍໃສ່ຊ່ອງນີ້ ຖ້າທ່ານອ່ານຫຼືປາກພາສາລາວ.	Laotian
☐ Zaznacz tę kratkęjeżeli czyta Pan/Pani lub mówi po polsku.	Polish
☐ Assinale este quadrado se voce lê ou fala Português.	Portuguese

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☐ Însemnaţi această căsuţă dacă citiţi sau vorbiţi Româneşte.	Romanian
☐ Пометьте этот квадратик, если вы читаете или говорите по-русски.	Russian
☐ Maka pe fa'ailoga le pusa lea pe afai e te faitau pe tusitusi i le gagana Samoa.	Samoan
☐ Обележите овај квадратић уколико читате или говорите српски језик.	Serbian (Serbo-Croatian)
☐ Označte tento štvorček, ak viete čitať alebo hovoriť po slovensky.	Slovak
☐ Marque esta casilla si lee o habla español.	Spanish
☐ Markahan ang kahon na ito kung ikaw ay nagsasalita o nagbabasa ng Tagalog.	Tagalog
☐ ให้กาเครื่องหมายลงในช่องถ้าท่านอ่านหรือพูดภาษาไทย.	Thai
☐ Faka'ilonga'i 'ae puha ko'eni kapau 'oku te lau pe lea 'ae lea fakatonga.	Tongan
☐ Відмітьте цю клітинку, якщо ви читаєте або говорите українською мовою.	Ukrainian
☐ اگر آپ اردو پڑھتے یا بولتے ہیں تو اس خانہ میں نشان لگائیں.	Urdu
☐ Xin đánh dấu vào ô này nếu quý biết đọc và nói được Việt Ngữ.	Vietnamese
☐ צייכנט דעם קעסטל אויב איר שרייבט אדער ליינט אידיש.	Yiddish

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Appendix "B"

WHAT IF I DON'T SPEAK ENGLISH?

Revere Housing Authority (RHA) offers persons who are limited English proficient (LEP) an equal opportunity to be served in all of its facilities and programs. Our policy is to communicate effectively with LEP persons through bilingual staff, in-person or telephone interpreter services, and translated materials.

1. If you do not fluent in English, please let RHA know what language you speak. Interpreters are available in more than 140 languages, most of which appear on our language identification cards.

2. RHA provides interpreter services at no cost to its program participants or service recipients. You do not have to bring your own interpreter.

3. If you prefer to have a family member or friend interpret, RHA will respect your preference unless it would hamper effective communication. You may change your mind at any time and request an RHA interpreter. RHA strongly discourages use of minors as interpreters.

4. In addition to the interpreter services offered when you visit our facilities, RHA staff may use a telephone interpreter service to receive your incoming calls or to reach you by telephone.

5. If you need help translating English language letters or other written material you receive from RHA, please ask RHA to have an interpreter assist you.

6. If you have any difficulty obtaining interpreter services at any RHA facility, please contact our Coordinator of Interpreter Services, Charles Lambesis, P.H.M., at 781-284-4394 at Revere Housing Authority, 70 Coolidge Street, Revere, MA 02151.

Biographies

Linda R. Hassberg is an attorney in the Long Island office of the Empire Justice Center. Empire Justice is the only statewide, multi-issue, multi-strategy non-profit law firm focused on changing the "systems" within which poor and low income families live. With a focus on poverty law, Empire Justice undertakes research and training, acts as an informational clearinghouse, and provides litigation backup to local legal services programs and community based organizations. As an advocacy organization, Empire Justice engages in legislative and administrative advocacy on behalf of those impacted by poverty and discrimination. As a non-profit law firm, it provides legal assistance to those in need and undertakes impact litigation in order to protect and defend the rights of disenfranchised New Yorkers.

Ms. Hassberg is a senior staff attorney in the Long Island office of the Empire Justice Center. Her primary responsibility is impact litigation in the areas of public benefits, access to health care, and disabilities. She has filed class action lawsuits against both counties in Long Island challenging untimely eligibility determinations for benefits applications, due process violations, and failure to provide emergency assistance. In addition, she has represented clients at administrative hearings and in court seeking assistance with child support, Medicaid coverage, day care benefits, and adequate emergency housing. She is an active member of the Long Island Language Advocates Coalition and chairs its Courts Committee.

Cheryl Keshner is a Senior Paralegal/Community Advocate with the Empire Justice Center on Long Island, where she assists indigent people, particularly immigrants, in obtaining assistance from the Department of Social Services and other government agencies. She is active in advocating for the rights of people with limited English proficiency and has provided training and technical assistance to other advocates throughout the state. She is the coordinator of the

Long Island Language Advocates Coalition (LILAC). a coalition of individuals and organizations based on Long Island working to attain equal access to programs and services, such as health care ,law enforcement , social services, education and justice through the courts, for persons who are limited English proficient. LILAC was instrumental in gaining the passage of executive orders mandating language access at county agencies in both Nassau and Suffolk counties.

Prior to joining the Empire Justice Center, Cheryl worked for fifteen years as a social worker with Nassau/Suffolk Law Services, where she assisted numerous homeless individuals and families, challenged work rules disqualifications and provided representation at fair hearings. She has also worked as a community organizer with the NYC Commission on Human Rights. Cheryl gains her inspiration from her clients who demonstrate incredible spirit and determination, despite the many obstacles and prejudices they may face. Cheryl is the recipient of the 2013 Equality Award from the Suffolk chapter of the New York Civil Liberties Union. She has a Masters in Social Work from Hunter College School of Social Work.

Robin Marable is a Staff Attorney with Legal Assistance of Western New York®. Ms. Marable litigates cases in the areas of Reentry, Public Benefits and Fair Housing in administrative and court proceedings. Ms. Marable has successfully asserted federal language access requirements to prevent the loss of housing and public benefits and has litigated numerous cases in the Western District of New York and the Division of Human Rights. Ms. Marable is currently working to create a coalition of advocates in Monroe County to address systemic issues that are creating barriers to persons with limited English proficiency. Ms. Marable provides numerous trainings to community agencies in Monroe County on topics relating to housing and employment discrimination. Ms. Marable is a 2002 graduate of Pennsylvania State University-Dickinson School of Law. Since then she has worked for both LawNY and the Legal Aid Society of Rochester, another public interest law firm.

Amy S. Taylor is a Senior Staff Attorney and the Coordinator of the Equal Rights Initiative at Legal Services NYC, the largest provider of free civil legal services for low-income people in the country. The Equal Rights Initiative is a civil rights project that challenges unlawful discriminatory policies and practices based on race, gender, disability, sexual orientation and other protected categories. Amy also coordinates the Language Access Project at LSNYC, a cutting edge project that seeks to increase access to services and justice for low-income limited English proficient (LEP) New Yorkers through litigation and policy advocacy. The Language Access Project seeks to both improve the accessibility of Legal Services NYC's own services and to challenge discriminatory practices that prevent LEP clients from obtaining the government benefits and services to which they are entitled. Before working at Legal Services NYC, Amy was the Director of Policy at the New York City Mayor's Office of Immigrant Affairs. Prior to law school Amy was the Public Benefits and Language Access Coordinator at the New York Immigration Coalition and one of the lead advocates for the passage of the Equal Access to Human Services Act, a landmark civil rights law and one of the first local ordinances to require language services in the nation. Amy received her J.D. from the CUNY School of Law.