

Expanding Language Access in Federally Supported Programs

Practical Solutions for Persistent Problems

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Executive Summary

Providing access to public services and information for individuals who have limited proficiency in English has been a civil rights requirement for federally funded programs for more than half a century. This obligation to provide language access has become more pressing in recent decades, given the size, growth, and dispersion of the country's immigrant and Limited English Proficient (LEP) populations. Evidence of significant gaps in compliance with language access requirements across the country have also made the issue more pressing, particularly the extensive failures in communication with LEP individuals and families during the COVID-19 pandemic. These failures powerfully underscored the importance of providing public information and services in languages other than English, while also illustrating the harm and disparities that not doing so can create.

Federal civil rights law and regulations require that any recipient or subrecipient of federal funding provide language access in their programs. Because federal funding reaches so deeply into state and local systems and so widely across the country, language access requirements affect virtually all sectors of government and cover myriad programs delivered by state and local governments as well as for-profit companies and community organizations. Described

in this analysis as “federally supported programs,” these include, for example, state workforce agencies managing unemployment insurance programs, local school districts receiving federal dollars through their states, county human services offices overseeing programs such as the Temporary Assistance for Needy Families or the Supplemental Nutrition Assistance Program, and private hospitals that receive federal funds when treating Medicare and Medicaid recipients. Although the federal government delivers some important information and services to the public directly (for example, Social Security benefits), providing language access in the programs that federal agencies pass funds to is especially critical, since most members of the public receive services and information from programs delivered by state and local entities, rather than directly from federal agencies or offices.

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Even though removing language barriers for people interacting with federally supported programs has been a requirement for many decades, it remains a distant goal rather than a reality. These barriers persist in part due to the numerous practical challenges of planning, coordinating, delivering, and monitoring access for LEP individuals across a large number of sectors and programs as well as the sheer number of state, county, and local governments and other entities subject to language access requirements. They also persist due to failures at the federal level to implement practical strategies that would better support federal agencies and their major programs in helping their state and local recipients and subrecipients to understand and meet their language access obligations to provide LEP individuals with meaningful access to their information and services.

The federal government—particularly the U.S. Department of Justice and other federal agencies’ civil rights offices—has developed basic infrastructure and resources to support implementation of language access requirements by federally funded programs. These include agency-level guidance, an online repository of information related to language access, and a system for receiving and adjudicating complaints related to language access violations.

However, as this brief concludes, several “next-generation” strategies are needed to support state and local programs in operationalizing and sustaining effective approaches. These include weaving stronger planning and reporting requirements into routine processes (such as applications for funding and program reviews) for information and services delivered by state and local recipients of federal funds, along with provision of specialized guidance for these entities. These strategies should be buttressed with expanded resources for technical assistance, as well as inclusion of evidence of language access efforts in monitoring and accountability processes. To maximize limited resources and better support fidelity in implementation across federal programs, stronger

coordination via a centralized office or entity such as the Department of Justice is also needed.

Steps the federal government can take to advance practical solutions such as these and address significant gaps in current system designs and practices include:

- ▶ **Ensure that all major federal programs develop and circulate guidance on language access that specifically details models for how their recipients and subrecipients should assess and comply with language access requirements.** This guidance should expand on existing (but more general) agency-level guidance on language access and be tailored for specific federal programs and their delivery to the public by either state or local recipients and subrecipients.
- ▶ **Embed notifications and requirements related to language access in routine processes associated with federal programs, including funding announcements, applications, and awards as well as program reporting and review processes.** Elements such as these should be utilized by agencies and individual programs to the greatest extent possible.
- ▶ **Dedicate new or existing staff to coordinate language access efforts at both the agency level and within major subagencies or programs.** Such positions can help ensure the quality and cost-effectiveness of agency and program efforts. Staff from agency civil rights offices could also be embedded within major public-facing or grant-making offices to strengthen language access efforts, especially with regard to federally supported programs and their subrecipients.

- ▶ **Provide sufficient resources for agencies' civil rights offices to conduct investigations into failures by recipients and subrecipients of federal funding to provide language access.** The capacity of agency civil rights offices to conduct investigations varies greatly; agency and administration leaders as well as Congress should ensure that agencies are able to maintain or expand their capacity to pursue complaints and investigations related to violations of federal requirements at a scale meaningful and proportionate to agencies' programmatic demands.
- ▶ **Implement an effective, cross-agency approach led by the Department of Justice—with the support of the White House and Office of Management and Budget—to strengthen coordination, cross-agency learning, and quality control of language access measures.** Such efforts should include assessment of language access across federal agencies, building understanding of strengths, weaknesses, and opportunities to improve efficiency and effectiveness across federal programs. In addition, existing federal efforts that touch on language access (such as those aiming to promote greater equity in federal programs under Executive Order 13985 or the Biden administration's Task Force on New Americans) should be leveraged to improve federal coordination while also placing a heavy focus on improving provision of language access in programs delivered by recipients of federal funding at the state and local levels.

Implementing these recommendations will strengthen and expand federal infrastructure to support language access while also fostering a more coordinated, effective, and efficient federal

response to agency and public needs. Beyond direct federal agency program operations, these efforts would also support state and local governments and nongovernmental organizations in meeting their critically important responsibilities in this arena. Ultimately, this more strategic and coordinated federal approach to language access has the potential to increase access to critical services and public information for LEP communities and individuals and to improve the efficiency and effectiveness of federally supported programs across the country.

1 Introduction

Ensuring that Limited English Proficient (LEP) individuals have access to information and services from government programs—that is, language access—is a critical concern for policymakers and all those affected when members of a community cannot access health, safety, and other services intended to be available to them.¹ More than 25 million residents of the United States have limited proficiency in English, and as the COVID-19 pandemic amply demonstrated, all levels of government have an important and often urgent need to communicate with those living in their jurisdiction, regardless of how well they speak English.² The effectiveness and impact of government programs can also be limited if they do not reach individuals and communities that speak languages other than English. For example, the goals of early childhood education programs or public assistance programs may be undercut if they do not take steps to ensure their services can reach and effectively serve LEP individuals or families. Important civil rights issues are also at stake. Denying an individual access to a government program (such as health care, education, nutritional support, or emergency services) because they do not speak or understand English creates a serious inequity that can potentially cause harm to that person or their family.

To avoid such harms, Title VI of the *Civil Rights Act of 1964* and subsequent Supreme Court decisions and executive orders have established that every person in the United States has the right to not face discrimination in accessing programs funded by the federal government because of how well they speak English.³ This requirement to provide language access means that recipients of federal funding (and any subrecipients they grant that funding to) must offer “meaningful access” to their programs for LEP individuals.⁴ Due to the extensive reach of federal funding across the country and within service systems, language access obligations apply to a wide range of programs and services delivered by state and local governments as well as nongovernmental entities that receive support either directly from the federal government or as subgrantees of direct recipients. These requirements apply to major flagship public assistance programs such as the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and Medicaid as well as the many other services that receive federal funding in domains such as housing, education, early childhood, health care, and social services. This brief places a special focus on programs such as these, which are funded by federal dollars but administered by nonfederal entities such as state and local governments, referring to them as “federally supported programs.”

Despite the longstanding requirement to provide language access and an existing set of federal policies and resources to address elements of compliance with it, determining how to actually ensure language access in federally supported programs remains a complex challenge for federal agencies as well as recipients of federal funding. Generally, providing meaningful access necessitates anticipating the need for language assistance; providing that assistance via qualified bilingual staff, interpreters, and/or translation of written materials; and ensuring the quality and timeliness of the assistance. Because so many programs receive federal funding, language

access requirements apply to a broad range of public-serving entities across the country—from small municipal departments to massive statewide systems, as well as to nonprofit and for-profit nongovernmental groups. This reach makes one-size-fits-all solutions difficult and illustrates the need to develop more effective policy and technical assistance infrastructure to support effective operationalization of language access and to better ensure federal funding recipients and subrecipients meet their language access responsibilities.

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Beyond these broader challenges, available evidence supports the conclusion that language access in federally supported programs remains an unrealized goal. Direct evidence of the extent of language access across all federally supported programs is limited, but several cross-governmental studies show deficiencies in the efforts of both federal agencies and state and local recipients of federal funding.⁵ Similarly, the number and reach of civil rights complaints filed with federal agencies regarding discrimination against LEP individuals indicate a lack of language access in funding recipients’ services.⁶ Research conducted at the local and state levels by advocacy, legal aid, and community groups across the country also supports this conclusion.⁷

In addition to the overarching challenges of scope and reach, gaps in the federal policy implementation framework continue to hamper efforts to ensure language access in federally supported programs. These gaps include limited specialized technical assistance and guidance for funding recipients, weak planning and reporting requirements connected to

language access, and underutilized and under-resourced monitoring and accountability measures. Even though many (if not most) federal programs on which communities and LEP individuals rely are delivered by local or state entities rather than directly by federal agencies, the federal government's cross-cutting efforts to address language access have often focused on actions agencies can take to improve language access in the programs or information they deliver directly, rather than developing more effective, cross-governmental approaches to ensure federal grantees meet language access requirements.

This policy brief explores these many challenges as well as potential solutions for advancing language access in federally supported programs. It first describes the issue of language access and the reach of related federal civil rights requirements, before identifying gaps in the existing framework of policies and technical assistance that are intended to operationalize language access in federally supported programs. The brief concludes with a discussion of steps the federal government can take to begin to close these gaps in order to provide better access to federal programs for LEP communities and thereby improve equity and effectiveness in the delivery of government programs and services.

2 Language Access Requirements, Their Reach, and the Existing Federal Framework Guiding Implementation

Language access has been a requirement under federal civil rights regulations for decades. Consequently, there is an established framework to guide the efforts and compliance of federally supported programs to serve LEP individuals. This section reviews

the history, nature, and reach of the requirement for federally funded programs to offer language access. It concludes by laying out the most common measures federal agencies currently have in place to support and promote language access among recipients and subrecipients of their funding.

A. *The Requirement to Provide Language Access*

Title VI of the *Civil Rights Act of 1964* prohibits discrimination or exclusion from any federally funded activity based on a person's race, color, or national origin.⁸ The protected category of national origin also covers the language an individual speaks, meaning that not providing services to an individual solely because they do not speak English proficiently comprises discrimination. This rule, solidified by the landmark 1974 Supreme Court decision in *Lau v. Nichols*, requires recipients of federal funding to offer meaningful access to public services for LEP individuals.⁹ Title VI covers both intentional discrimination and actions that have the "effect of subjecting individuals to discrimination" based on not speaking English proficiently.¹⁰ This means that not providing a qualified interpreter to an LEP individual in an interaction with a government office would generally qualify as discrimination even if the program or provider was not intentionally discriminating against that individual because they did not speak English.

In 2000, President Bill Clinton signed Executive Order 13166, extending this requirement to federal agencies and the programs they directly provide to the public, which were not covered by Title VI of the *Civil Rights Act*.¹¹ Executive Order 13166 also initiated new efforts at the U.S. Department of Justice (DOJ) and all other agencies to develop greater planning, guidance, and coordination on language access across the federal government.¹² Following the executive order, DOJ released guidance for its funding recipients on how to comply with language access

requirements, and this guidance has served as a model for similar guidance documents developed by other federal agencies. DOJ has also reaffirmed the requirements of Executive Order 13166 via memos from the attorney general to all federal agencies in 2011 and 2022, and most agencies had issued updated language access plans as of November 2023.¹³ In accord with both the *Civil Rights Act* and more prominently Executive Order 13166, many states and local governments have also developed and enacted laws and policies related to language access in their services (see Box 1).

B. *The Reach of Language Access Requirements*

The requirement to provide meaningful access to services for LEP individuals covers two categories of programs supported by the federal government: programs and services that federal agencies provide directly to the public, termed “federally conducted” activities for this brief, and services that receive federal funding or support but are provided by entities other than a federal agency (that is, “federally supported” services or programs).

Federally Conducted Programs

In federally conducted programs and sectors, federal agencies—much like state and local recipients of federal support—must ensure that LEP individuals have access to interpreters, bilingual staff, and/or translated materials and that other necessary tools and strategies are in place to provide language access. For these programs and services (such as Social Security and the immigration system, for example), policies and procedures for serving LEP individuals are guided by agencies’ language access plans, which Executive Order 13166 requires all departments to create and implement.¹⁴ These plans detail how agencies will develop, coordinate, operationalize, and evaluate language access. Agency language access plans generally contain standard components

such as guidance for how agencies will identify those in need of language services, train staff, provide language assistance via translation and interpreting, and monitor implementation of the plan.¹⁵ These approaches to planning and implementing language access measures in federally conducted programs are in many ways similar to how numerous state and local agencies develop and operationalize their own language access programs.

Agencies may also form their own committees, working groups, and other organizational initiatives to coordinate language access across their programs. In 2022, for example, the U.S. Department of Health and Human Services (HHS) developed a Language Access Steering Committee, headed by its Office of Civil Rights, for component offices of HHS to “reassess and update their language access plans to ensure that LEP persons have meaningful access to HHS-administered health and human services programs and activities.”¹⁶ Similarly, several agencies—including DOJ and HHS—also have designated language access coordinators who are responsible for overseeing efforts related to language access in their respective agencies.¹⁷

Federally Supported Programs

Language access in federally supported programs covers services that are funded by federal dollars but administered by entities other than federal departments or agencies, such as state and local government agencies and nongovernmental organizations that receive any federal funding, including indirect support such as vouchers for a particular service.¹⁸ Ensuring access for LEP individuals to programs and services provided by recipients of federal funds is essential, given that it is most often these entities that provide the actual program or service that federal funds are intended to deliver.

Title VI requirements also apply to subgrantees (also known as subrecipients), such as local governments

BOX 1**State and Local Language Access Laws and Policies**

Many states and municipalities have developed their own language access laws and policies to provide better access to their services for Limited English Proficient (LEP) individuals. These laws and policies contain many common features such as standardized translation and interpreting practices and procedures for a jurisdiction, the designation of oversight bodies for language access implementation, and requirements for the development of agency-level language access plans. State and local laws and policies often essentially codify elements of the U.S. Department of Justice guidance on language access, transforming the guidance into official, binding requirements for departments and government employees within their jurisdictions. Such regulations can establish more regular planning and evaluation of language access measures and also provide more specific, binding requirements for how to operationalize access to public services for LEP individuals. In this way, state and local policies on language access illustrate the need for a coordinated response to providing language access, one that equips government programs and grantees with specific instructions, guidance, goals, and standards that are monitored regularly by a central entity. It is important to recognize, however, that such laws and policies do not exist in all jurisdictions, and where they exist, their impact is dependent on how effectively they are implemented.

Source: Jacob Hofstetter, Margie McHugh, and Anna O'Toole, *A Framework for Language Access: Key Features of U.S. State and Local Language Access Laws and Policies* (Washington, DC: Migration Policy Institute, 2021).

or community organizations, that receive federal funding passed on to them by state agencies.¹⁹ Importantly, language access requirements cover a (sub)recipient's entire program, not just the component that receives federal funding.²⁰ For example, even if a local government agency has only one specific activity receiving federal dollars, the requirement to provide language access would generally apply to the entire agency and all of its programs.²¹ As a result, the implementation of language access measures means that a wide range of entities at the state and local levels must be prepared to plan for, deliver, fund, and monitor service access for LEP individuals, generally using translation along with interpreting and/or qualified multilingual staff.

C. *The Framework for Ensuring Language Access in Federally Supported Programs*

The federal government's framework for supporting federal funding recipients' provision of language access encompasses a range of guidance and resour-

es, including agency-specific ones and those curated in a more centralized manner by DOJ. This framework also includes mechanisms to ensure compliance with language access requirements, such as civil rights investigations. Given the vast number of federally funded programs and services, this section aims to provide an overview of the primary features, rather than an exhaustive description, of actions that federal agencies have taken to ensure provision of language access in programs they pass funds to.

Guidance and Information for Federally Supported Programs

Most federal agencies have issued guidance intended to help funding recipients anticipate their need to deliver services to LEP individuals, plan for coordinating language assistance, and ensure that such assistance is accurate, timely, and cost-effective. Generally known as LEP guidance, it mostly mirrors the original 2002 DOJ guidance released after the issuance of Executive Order 13166. Broadly speaking, LEP guidance aims to provide recipients with advice and steps for meeting language access requirements and includes overarching considerations and best

practices in delivering services for LEP individuals, such as appointing language access coordinators, delivering appropriate interpreting and translation services, and developing language access plans.

Some federal program and agency civil rights offices also offer additional or sector-specific information on how funding recipients can ensure they provide access to their services for LEP individuals.

Some federal program and agency civil rights offices also offer additional or sector-specific information on how funding recipients can ensure they provide access to their services for LEP individuals. This may include details on civil rights regulations related to language access, enforcement actions by civil rights offices, or for programs, information on how to serve LEP individuals. For example, the website of the U.S. Department of Education's Office for Civil Rights provides a collection of fact sheets, official guidance, self-evaluation materials, and other resources related to serving English Learner students and LEP parents.²² Other examples are letters, guidance, and other written communications circulated to state-level recipients of federal funds. In 2010, for instance, DOJ issued a letter to chief justices and administrators of state courts to "provide greater clarity regarding the requirement that courts receiving federal financial assistance provide meaningful access for LEP individuals."²³ The letter provided specific guidance on the types of cases and settings in which the state courts should use interpreters or bilingual staff. However, specific resources and guidance such as these are not provided for all federal programs.

On a cross-governmental level, DOJ's Federal Coordination and Compliance Section manages LEP.gov, a website dedicated to collecting resources, guidance, and best practices on a variety of language access

topics in one centralized location. The resources are available by topic, agency, and sector and include a wide range of technical assistance that extends beyond more formal civil rights guidance.²⁴ LEP.gov also provides a record of civil rights complaints and resolution agreements across various areas such as housing, public benefits, and law enforcement.

Mechanisms for Ensuring Compliance

Existing strategies and mechanisms to promote awareness of language access obligations and bring about greater compliance from state and local recipients include several common features. Across federal programs, recipients of federal funding must sign assurances indicating that they understand their obligations under Title VI of the *Civil Rights Act of 1964* (among other laws) and will not discriminate.²⁵ In theory, these assurances should serve as notice to recipients that they must ensure access to their services for LEP individuals, though the documents' exact language and direct reference to language access requirements differ among agencies.

Civil rights complaints are the primary means of ensuring compliance with language access obligations by recipients of federal support. Individuals or groups who feel that they have been denied access to any federally supported program based on not being proficient in English (as well as advocates acting on their behalf) may file a complaint with the funding agency's civil rights office or DOJ.²⁶ Civil rights offices generally review cases to determine if grounds exist for an investigation and, if so, conduct an investigation into the alleged discrimination.²⁷ Following the investigation and finding, civil rights offices typically develop a settlement agreement with the federal funding recipient that contains specific steps the recipient must take to provide LEP individuals with better access to their program. If the recipient does not agree to a settlement, civil rights offices may also issue a finding and mandate steps the recipient must take to come into compliance

with Title VI, after which funding may be terminated if the program does not comply.²⁸

Some federal programs have additional language access requirements that are more specific or prescriptive for recipients of their funding. In some cases, evaluation of language access and evidence of serving LEP individuals may be incorporated into routine program reviews. For example, Head Start programs must show that they use interpreters in specific circumstances, demonstrate plans for serving LEP families in applications for funding, and have their services to LEP families evaluated as part of regular compliance reviews.²⁹ Other federal programs include specific language access requirements in their statutory requirements or subsequent regulations. For example, under Section 188 of Title I of the *Workforce Innovation and Opportunity Act* (WIOA), local workforce development boards are required to not rely on an LEP individual's minor child or adult friends or family for interpreting and to include "Babel notices" (short notices informing individuals of their right to language assistance) on all vital written materials, and they are encouraged to develop language access plans.³⁰

3 Gaps in the Existing Framework for Ensuring Language Access in Federally Supported Programs

Available evidence suggests that language access remains, at best, uneven across federally supported programs.³¹ Since federal dollars reach nearly every service system across the country, it is virtually impossible to identify every shortcoming related to language access in all federally supported programs nationwide and even more difficult to determine

the causes of every failure to provide LEP individuals with access to public services. Nevertheless, the federal framework of language access regulations, guidance, resources, and requirements clearly suffers from notable gaps. These gaps mostly fall into three overarching categories: limited specialized technical assistance and guidance for recipients, insufficient planning and reporting requirements connected to language access, and underresourced and underutilized monitoring and accountability measures.

A. *Limited Specialized Technical Assistance and Guidance for Federal Funding Recipients*

Although guidance on language access is available for recipients and subrecipients of federal funding, it usually is not tailored to helping them understand how to achieve compliance within their specific service sectors or the specific federal program they deliver. The federal government—particularly DOJ and agencies' civil rights offices—has created many resources to support compliance with language access requirements, such as LEP.gov. However, despite their utility, these resources are generally not tailored to specific program needs, and it is not clear that recipients across all federal programs and across the country are aware of their existence. Federal funding announcements are also not required to link to these resources, and direct recipients of federal funding such as state agencies are not required to share relevant federal resources with subrecipients.

At the same time, these resources generally do not provide detailed information related to the many critical implementation questions that providers of federally supported programs may encounter. For example, approaches for providing reliable and readily available translations of written materials will differ in court systems, public health agencies, and school districts. Even within these larger systems,

different settings introduce unique considerations related to communicating with LEP individuals. In the health-care field, for example, how to use and position interpreting might change depending on whether an LEP individual is accessing a call center, an emergency room, a doctor's office, or home-based services. Similarly, there is little guidance for recipients on how to budget for language services within their programs' funding streams or how existing data collection efforts should be leveraged to collect data on LEP individuals' use of services and, in turn, inform service designs.

Valuable guidance and resources of this nature, however, are not provided or required across federal programs or funding streams, leaving gaps in understanding.

Some individual federal agencies and programs (such as DOJ and the U.S. Department of Agriculture's Food and Nutrition Service) have developed their own language access resources,³² and some agencies' LEP guidance provides more direct advice to specific types of recipients. For example, DOJ's LEP guidance contains separate sections tailored to law enforcement, court systems, and correctional systems.³³ Similarly, the U.S. Department of Labor's guidance includes examples of how different types of recipients—such as unemployment insurance agencies and workforce training providers—should approach compliance.³⁴ Valuable guidance and resources of this nature, however, are not provided or required across federal programs or funding streams, leaving gaps in understanding for both federal program administrators and (sub)recipients about particular steps needed to achieve compliance.

B. *Insufficient Language Access Planning and Reporting Requirements*

Providers of federally supported programs must complete multiple steps to be awarded funds, and if successful, must then report on the status and progress of their programs in serving the intended target population, reaching program goals and performance measures, and using federal funds in accordance with program and contract rules. However, language access is not a standard part of these processes, meaning that numerous entities receive and spend federal funds without ever demonstrating adequate plans to address language barriers in their services or evidence of actions taken to ensure language access.

Language Access Not Adequately Embedded in Routine Federal Award and Reporting Processes

Language access is not sufficiently embedded in federal funding award processes, including program design and budgeting pre-award as well as reporting and monitoring post-award. The processes of applying for federal grants and appropriated formula funding generally lack requirements for recipients to show that they have evaluated language access needs in their services. Even though recipients must sign assurances that they understand their civil rights obligations, they are generally not required to provide any evidence of planning or budgeting for language services such as anticipated contracts with language services companies or administrative funding earmarked for relevant planning and outreach.

Language access is also not a standard part of regular compliance or program reviews across federal agencies. Federal programs generally undertake

some form of monitoring, review, and/or evaluation of their funding recipients that could be used to remind recipients of their language access obligations and, if necessary, hold them accountable for not meeting them. For example, programs such as Head Start specifically include language access as part of reviews, and recently developed language access plans for HHS and the U.S. Department of Housing and Urban Development call out the use of program reviews as a promising opportunity to bring recipients into compliance.³⁵ Again, however, weaving language access into the design of routine federal funding features, in this case post-award review processes, is far from a standard practice across federal agencies and their subprograms, leaving significant gaps in their ability to ensure that (sub)recipients are providing language access in their programs.

Weak Utilization of Data Pertinent to Language Access in Federal Programs

It is difficult to determine if funding recipients are providing meaningful access to services for LEP individuals without careful consideration of data pertinent to language access in federally conducted and funded activities. However, there are few requirements for federal programs and their funding recipients to consider, collect, and/or report data on key metrics related to language access, and many funding recipients have limited capacity to capture and report such data.

An underutilized resource for improving language access is American Community Survey (ACS) data, published annually by the U.S. Census Bureau. The ACS makes available detailed information on the number of LEP individuals in a range of geographies from states to individual census tracts, the languages spoken by households in each area, and the level of English proficiency of those groups of language speakers.³⁶ Use of such data to inform federal award and sub-award processes could help ensure that potential federal funding recipients have anticipated

which languages they will encounter as they provide their services and the size of LEP populations in their service areas. ACS data are public and available to all recipients of federal funding, including nonprofit organizations as well as governmental institutions. Although the DOJ guidance notes the use of census data as a best practice, recipients of federal funding are not required to consider such data as part of compliance with Title VI obligations.³⁷

Other key types of data that could be used to better understand and evaluate recipients' and subrecipients' efforts to serve LEP individuals are also generally not required to be collected or reported. For example, many recipients and subrecipients maintain language service contracts that collect and report service usage as part of their routine operations, and they would also have records indicating the number of staff they have trained on language access requirements or positions devoted to language access service provision. These data could be incorporated in various ways into federal application, monitoring, and reporting processes. Yet, despite the potential benefits, there are no standard practices or requirements across federal agencies on the use of such data to inform or improve how language access is operationalized in federally conducted or supported programs.

C. Underresourced and Underutilized Monitoring and Accountability Measures

Even with effective guidance and attention to language access in planning and reporting processes, it is necessary for federal programs and agency civil rights offices to have means to confirm that recipients and subrecipients are complying with requirements and, if they are not, to take corrective action. Some powerful tools exist to accomplish this (particularly civil rights investigations), but they are

generally too underresourced or underutilized to meaningfully support greater compliance.

Limited Requirements on Specific Actions Funding Recipients Must Take

A significant challenge facing efforts to ensure accountability for language access is the lack of standard practices or procedures that recipients of federal funding are required to use to provide meaningful access to their services for LEP individuals. Instead of providing one set of requirements across diverse programs, the federal government relies on a standard of meaningful access to hold recipients accountable. This, quite reasonably, recognizes that the varied contexts and circumstances of individual programs resist one-size-fits-all approaches, and therefore allows recipients and subrecipients in different sectors and demographic contexts flexibility in how to meet the needs of LEP individuals.³⁸

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However, while flexibility for (sub)recipients is necessary, in practice, the flexibility granted to federally supported programs under current over-arching federal guidance can allow them to not take even basic steps to provide language access, such as considering LEP data for their service area, translating website information, maintaining language services contracts, or developing language access plans. Even though steps such as these are among the primary actions recipients would normally take to address their language access obligations, none are

technically *required*—they are simply *recommended* by the agencies' LEP guidance.³⁹

Laws authorizing some federal programs and their subsequent regulations have addressed such weaknesses in federal guidance by articulating specific, additional language access requirements for their funding recipients. For example, Section 1557 of the *Affordable Care Act* (ACA), which deals with nondiscrimination in programs funded and conducted by HHS as well as entities created by the ACA, provides more extensive language access requirements to the organizations and providers it covers. Under these regulations, which were updated in May 2024, covered entities must implement “written language access procedures” that lay out the process for providing language assistance for LEP individuals.⁴⁰ In addition, covered entities must provide notice of the availability of language assistance in the most common languages in their area and in a variety of routine communications, and they must adhere to set standards when providing video or remote interpreting. Larger institutions must also appoint a 1557 coordinator who is responsible for managing the entity's language access requirements, among other duties. Similarly, WIOA's Section 188 regulations set language access requirements for local workforce services providers, though they are less extensive than those required by ACA Section 1557.⁴¹ Such additional requirements can serve as important models for advancing language access in other federal programs, particularly in the absence of an expansion of specific requirements across all federal agencies.

Limited Resources for Investigating and Resolving Civil Rights Complaints

Civil rights investigations are the primary redress mechanism for individuals and groups who believe they have experienced discrimination when attempting to access information or services from a federal agency or funding (sub)recipient based on

their limited proficiency in English. However, limited staffing and resources hinder agency civil rights offices from conducting investigations and resolving instances of discrimination at a scale proportionate to the needs of agencies and the field.⁴² As a result, the reach and impact of civil rights complaints and investigations remain limited and generally insufficient for meaningfully monitoring language access compliance across federal programs.

In addition, even when formal complaint resolutions are reached with entities found to be out of compliance, other federal funding recipients in the same or related fields may not become aware of the settlements or use the corrective actions agreed upon in those resolutions to address weaknesses in their own language access measures. Considerations for compliance stemming from these agreements are also not generally incorporated into guidance or communications from federal offices to recipients.⁴³ Consequently, the important lessons and implications of civil rights investigations are not fully leveraged to inform and enhance the efforts of all funding recipients in a particular sector or federal program.

These challenges related to civil rights investigations and enforcement are further complicated by the lack of a private right of action related to alleged language access violations. Although individuals and their advocates can take legal action related to acts of intentional discrimination, the avenues to do so are limited for “disparate impact” cases, in which actions have the effect but not the intent of being discriminatory.⁴⁴ Most language access violations fall into this category, because in most cases, federal funding recipients are failing to plan, implement, and monitor access to their services for LEP individuals rather than intentionally excluding them. Thus, private actors such as community groups or advocates often cannot take legal actions that could potentially bring more recipients and subrecipients

into compliance with federal requirements for language access; instead, they generally must rely on civil rights investigations.⁴⁵

Lack of Monitoring of Federal Funding Subrecipients

Monitoring and accountability related to language access in federally supported programs does not rest solely with federal agencies or their civil rights offices. Recipients of federal funding—for example, state agencies that then grant portions of that funding to local governments, who in turn grant funds to other entities—are also responsible for monitoring language access in subrecipients.⁴⁶ Because subrecipients are often key providers of services to the general public, for example K-12 schools or county human services offices, fulfilling this monitoring responsibility as funds move closer to their final destination is essential to ensure language access occurs at the actual point of service delivery.

Steps to ensure this takes place might include state agencies requiring local recipients to analyze data on the size of their local LEP population, develop language access plans, budget for language services, and/or set up interpreting and translation contracts; they would then also use contract monitoring and reporting processes to gather data assessing the scope and effectiveness of services provided. Process elements such as these mirror those that should be in place between direct recipients and their federal agency partners. However, there is neither clear guidance nor a standard set of processes across federal programs for monitoring subrecipients’ provision of language access. Many agencies’ LEP guidance alludes to monitoring responsibilities but does not provide specific guidelines or resources for how to implement this important function.

4 Opportunities for Improvement and Recommendations

Although there are clearly gaps in the policy implementation infrastructure needed to ensure language access in federal programs, what does exist provides an important foundation on which to build. Improving language access in all federally conducted and federally supported programs is an enormously complex task. It is also an intensely practical challenge that requires planning, funding, staffing, expertise, coordination, monitoring, and evaluation on the part of federal agencies and their funding recipients at the state and local levels.

Furthermore, as this brief underscores, while it is important for federal agencies to “walk the walk” in providing language access in their own services, a more pressing need is for these agencies to expand and strengthen language access efforts among the recipients and subrecipients they pass funds to. These federally supported programs directly provide critical services such as education, health care, public benefits, and emergency services that are at least partially funded by federal dollars and, thus, must ensure language barriers do not impede LEP individuals from accessing information and services to which they are entitled.

With language access requirements existing for many decades but still so unevenly implemented, there is a need for “next-generation” strategies for improving language access in federally supported programs that target the three key overarching challenges explored in this brief: limited specialized technical assistance and guidance for recipients and subrecipients, insufficient planning and reporting requirements connected to language access, and underresourced and underutilized monitoring and accountability measures.

There is a need for “next-generation” strategies for improving language access in federally supported programs.

The recommendations in this section spotlight steps the federal government as a whole as well as individual federal agencies and their major programs can take to strengthen implementation of language access in services managed by recipients and subrecipients of federal funds.

A. *Develop and Deploy Customized Guidance and Technical Assistance for Funding Recipients and Subrecipients*

Informing all federal funding recipients of their obligations to provide access to LEP individuals and issuing specific guidance on how to meet these obligations should be a central focus of federal efforts to improve language access policy implementation. Many recipients may be aware of federal requirements but uncertain of how to address them in their particular program or service area; others may not have prior experience serving LEP individuals and may thus require additional guidance and technical assistance to create and evolve approaches for doing so. Some agency-wide resources on language access obligations already exist, such as LEP.gov, and some federal programs have begun creating more specialized guidance related to serving LEP individuals. However, there is little consistency in either the nature or breadth of efforts across federal agencies and their subprograms, particularly regarding approaches for ensuring language access requirements are addressed by their funding recipients and subrecipients.

Federal agencies and offices, in coordination with DOJ, should take the following steps to both increase awareness of language access requirements among (sub)recipients of federal funding and provide technical assistance contextualized for their specific programs:

- ▶ **Develop customized guidance on language access expectations for recipients of funding from major federal programs.** Major federal programs should build on their agency's existing guidance and develop guidance customized to address key features of their various subprograms' designs and the contexts in which they operate for (sub)recipients of their funding. These new guidance documents could include specific examples of cases in which funding recipients should be prepared to offer language assistance services, tailored to their specific sectors. For example, HHS's Administration for Children and Families could develop bespoke guidance for all of its key programs. As part of this process, major federal programs should also issue new communications with state- and local-level recipients on language access expectations and requirements. Examples of such communications include a DOJ letter to state courts in 2010, a 2016 letter from the U.S. Department of Agriculture's Food and Nutrition Service to state directors of child nutrition programs, a 2020 memo from the Employment and Training Administration of the U.S. Department of Labor, and a 2022 guidance document from the Department of Housing and Urban Development's Office of Fair Housing and Equal Opportunity.⁴⁷ Agencies could also offer or develop related trainings for their recipients and require attendance as part of grant requirements. Federal agencies and offices should also update their LEP and new program guidance every five to ten years and disseminate

updated copies to their regional offices and state-level funding recipients, who should in turn share and communicate changes in these documents to the entities they pass federal funds to. In addition, federal agencies should consider longer-term technical assistance efforts that engage with funding recipients in specific sectors to collaborate and build understanding of how to improve LEP individuals' access to services and information. For example, DOJ launched a Law Enforcement Language Access Initiative in 2022, which seeks to assist law enforcement agencies nationwide in meeting their language access obligations.⁴⁸

- ▶ **Provide examples and models of baseline levels of compliance with language access requirements.** To support (sub)recipients in understanding and meeting their language access obligations, agencies and their major subprograms should provide a baseline threshold or model of what compliance with language access obligations looks like. Currently, DOJ and other agencies' guidance provides a form of this in the "safe harbor" they provide for the translation of written materials, which sets forth the level of translation of vital written materials deemed to provide strong evidence of compliance with the recipient's language access obligations.⁴⁹ Similar thresholds or baselines should also be developed for other aspects of providing language access. Such expanded safe harbors could include evidence of addressing language access obligations such as the existence and use of language service contracts or multilingual staff to meet service area needs, the development of language access procedures and/or plans, and the provision of public notice (such as signage or other public outreach) to inform communities of the availability of language assistance.

In cases where funding recipients do not anticipate serving LEP individuals, such steps may not be necessary; however, in these instances, (sub)recipients should provide a justification for why they are not taking the steps recommended to demonstrate compliance.

- ▶ **Increase awareness of technical assistance and guidance on language access by including links or information in funding announcements and awards.** Federal agencies and their subprograms should ensure that notices of funding opportunities, civil rights assurances, and funding awards include detailed information on requirements for serving LEP individuals and pertinent resources related to language access. Examples of such efforts include: the U.S. Department of the Treasury’s civil rights assurance for recipients, which provides information on language access obligations and where more resources are available;⁵⁰ DOJ’s Office of Justice Programs, which also includes additional information and links to LEP.gov in its resources for funding applicants;⁵¹ and HHS’s 2023 language access plan, which directs the department’s granting agencies to “develop and incorporate LEP requirements or best practices in funding opportunity announcements.”⁵² Agencies could also require funding applicants or recipients to acknowledge the receipt of these resources, and larger funding recipients could be required to name a designated contact for language access matters.

- ▶ **Build cross-agency processes to support ongoing improvements in agency practices and knowledge-sharing.** Ensuring that agencies are aware of each other’s practices and initiatives to develop more specific guidance on language access

would help facilitate replication of effective practices across the federal government. As part of its guidance and standard setting for delivering federal grants and formula funding, DOJ—potentially in partnership with the Office of Management and Budget (OMB)—could lead this effort, working to identify and disseminate effective agency practices for expanding language access guidance and technical assistance. Similarly, the White House Domestic Policy Council, DOJ, and OMB could take steps to ensure other relevant cross-agency processes that seek to improve access, efficiency, or quality in federal services incorporate language access considerations (for example, processes related to the Biden administration’s Task Force on New Americans or Executive Order 13985 on advancing equity in federal programs).

B. Strengthen and Expand Planning and Reporting Requirements

While issuing targeted guidance can help funding recipients understand their language access obligations and ways to meet them, improving planning and reporting requirements is also necessary to ensure that (sub)recipients are actually and meaningfully addressing language access needs. These additional actions are essential to reduce the gap between the strong standard set out in regulations and the lack of specific requirements as to how it should be met. At the same time, efforts to strengthen and expand planning and reporting require careful consideration in order to not overburden recipients and to ensure changes meaningfully enhance access for LEP individuals.

To strike this balance, federal agencies should aim to weave language access considerations into routine

funding and reporting processes. By strategically embedding language access into existing processes, federal programs can build compliance feedback loops and track steps that recipients take to ensure access to their services or to monitor subrecipients' efforts to ensure language access. Promising models of these practices exist in some federal programs and regulations, but weaving such approaches into the routine funding and reporting processes of all major public-facing federal programs is a critical policy implementation element that has been neglected for decades.

Steps that policymakers at the White House and federal agency levels can take to address these serious gaps include:

- ▶ **Embed language access in applications, reporting, and routine program reviews across federal programs.** To prompt greater awareness, consideration, and action from public-facing recipients and subrecipients of federal funding, agencies should include aspects of language access implementation in planning, reporting, and review processes for federal programs. These should prompt (sub)recipients to indicate processes they use to determine language access needs, plans or measures they will use to provide access to LEP individuals, as well as evidence that plans and/or measures have been implemented. In the application processes for federal funding, for example, potential recipients and subrecipients should be required to provide information such as data on the LEP individuals they are most likely to encounter, their budget (if any) for language access services, and steps they will take to ensure subgrantees plan to and have provided meaningful access to LEP individuals.⁵³ Language access considerations should also be incorporated into regular reviews of federally funded programs. Language

access is already considered in some program review processes at federal level. For example, in Head Start programs, reviewers of local programs must evaluate and consider the extent to which recipients are providing outreach and access to LEP families.⁵⁴

Similarly, HHS's 2023 language access plan prompts the department's granting agencies to consider how to incorporate language access into program reviews.⁵⁵ All federal programs expected to reach and serve LEP individuals should take steps such as these in order to close the current gap in policy implementation. To strengthen such efforts across federal programs, DOJ and federal agencies' civil rights offices should identify effective approaches for including language access considerations in reviews of (sub)recipients and provide technical assistance to federal programs conducting such reviews.

- ▶ **Designate staff to coordinate and address language access implementation needs, particularly at the level of major agency programs and offices.** Improving language access in federal programs requires specialized knowledge and focused, ongoing efforts. Given the sheer size of many federal agencies and their major programs, designating staff responsible for developing this expertise and playing a leadership role in efforts to address language access obligations will in many cases be necessary. Several agencies have done so by designating language access coordinators to lead such efforts; however, larger agencies likely require additional staff capacity to address language access adequately both within and across major programs and services as well as among their (sub)recipients. While staff with such expertise might work via a centralized agency structure, agencies can also consider detailing or assigning civil rights office staff or

language access-focused staff to work within major public-facing or grantmaking offices to support improved language access measures. Such positions can help ensure the success and sustainability of agency and program efforts and bring valuable expertise to efforts to embed language access more effectively in program applications, reporting, and reviews.

- ▶ **Include expanded language access requirements when issuing or updating nondiscrimination regulations.** Federal agencies can help funding recipients and subrecipients better understand and address their language access obligations by noting in new or updated nondiscrimination regulations specific actions that should be taken to comply with the federal meaningful-access standard. This has been done, for example, via federal rulemaking processes under Section 1557 of the ACA and Section 188 of WIOA, which have clarified actions related to language access that must be taken by health-care providers receiving ACA funds and workforce development providers receiving WIOA Title I funds, respectively. In particular, HHS's new Section 1557 regulations expand and strengthen requirements related to language access that can serve as a promising model for efforts at other agencies.⁵⁶ Such regulations' additional requirements could include completing a language access plan, developing processes to certify multilingual employees' ability to speak languages other than English, providing public notices in languages other than English describing available language services, and considering population data, such as those from the ACS, to determine which languages are most commonly spoken among the LEP population in a recipient's service area.

C. *Leverage and Properly Resource Existing Monitoring and Accountability Mechanisms*

A third critical, yet often overlooked and underresourced, set of opportunities to close gaps in the implementation of federal language access policy is expanding the use of existing accountability and enforcement measures at the agency and program levels. Although many federal funding recipients make efforts to provide service access to LEP individuals, some fail to do so, whether due to a lack of awareness, resources, or will. Consequently, federal agencies need robust capabilities to monitor recipients, collect public feedback and complaints, and ensure federal civil rights obligations are met. While agencies have authority and basic infrastructure to undertake such actions, they require additional resources to function at scale and must become more strategic in leveraging their efforts for maximal effect.

Strategies to take better advantage of existing monitoring and accountability mechanisms include:

- ▶ **Expand agency civil rights offices' capacity to investigate language access complaints.** Given the central role of civil rights investigations in ensuring compliance with language access requirements, federal agency leaders and Congress should seek to ensure that civil rights offices are able to conduct such investigations at a scale commensurate with the breadth and scale of their agency's program services. Increasing agencies' capacity to investigate and resolve language access complaints would not only reduce potential harms to individuals and communities that can result from language barriers in public services, it would also likely

spur proactive compliance efforts among recipients and subrecipients of federal funds.

- ▶ **Incorporate investigation and voluntary compliance agreements into guidance or other informational resources for similar funding recipients.** As part of civil rights investigations, federal agencies and funding recipients generally reach settlement agreements in which investigators have laid out the steps a recipient must take to come into compliance with language access regulations. These agreements are mostly available on agency websites and LEP.gov. However, they should also be communicated to funding recipients beyond those party to a particular agreement (for example, via a letter to all state directors of the implicated program) and used more broadly to build awareness among state and local recipients of actions that constitute compliance and noncompliance with language access requirements. Agencies and federal programs could also aim to summarize common gaps found through civil rights investigations, especially if conducted on a large scale (as described in the previous recommendation), and the steps the investigated recipient will be required to take. The summaries could also be incorporated into LEP guidance, technical assistance, and other regular communications to federal funding recipients. Through such efforts, federal agencies can leverage the results of their language access investigations to heighten awareness among recipients of effective ways to provide language access and of the possibility of civil rights investigations.
- ▶ **Ensure federal language access efforts remain public, transparent, and open to feedback.** Currently, and perhaps for the foreseeable future, observing and monitoring

the implementation of federal language access requirements falls mostly to local organizations and community members. These groups and individuals have direct experience with whether state and local recipients of federal funding are providing LEP individuals meaningful access to their services. They are therefore key sources of on-the-ground information for federal efforts seeking to improve language access policy implementation. Federal policymakers should take steps to ensure that the knowledge and experiences of these state and local experts and community stakeholders inform their efforts. Avenues to accomplish this could include regularly hosting public listening sessions to inform relevant federal agency staff of community concerns and inviting public feedback on plans for federal language access technical assistance and capacity-building efforts.

5 Conclusion

For decades, strong provisions in federal law and policy have required federally supported entities to provide meaningful access to their services and information for people with limited proficiency in English. Yet, implementation of this important policy remains a largely unrealized goal. Ensuring language access requires intentional and proactive steps to build plans, policies, and procedures that enable government programs, which are often delivered by local providers, to provide language assistance to members of the public, such as through interpreters, bilingual staff, or translated written materials, in an effective and timely manner.

The approaches described in this brief are intended to address critical gaps in the infrastructure that supports policy implementation. They aim to better inform and assist funding recipients in meeting their

obligations, require them to take steps to overcome language barriers, and improve monitoring processes to ensure meaningful progress is being made. If designed and implemented strategically, these next-generation strategies will help federal agencies and their state and local funding recipients more

effectively diagnose and reduce language barriers, boosting the effectiveness of numerous federal programs and helping families and individuals across the country access services and information that are critical to their and their communities' public health, safety, and well-being.

If designed and implemented strategically, these next-generation strategies will help federal agencies and their state and local funding recipients more effectively diagnose and reduce language barriers.

Endnotes

- 1 Limited English proficiency is measured through responses to the U.S. Census Bureau's American Community Survey. Respondents are asked to indicate if they speak a language other than English at home. If they respond yes, the survey then prompts them to report their English proficiency. Those who report speaking English less than "very well" out of the options provided ("very well," "well," "not well," or "not at all") are considered Limited English Proficient (LEP). Although some advocates and other stakeholders prefer terms such as "individuals preferring a language other than English," this brief uses LEP because limited proficiency in English, not language preference, triggers the civil rights protections discussed in this analysis.
- 2 Migration Policy Institute (MPI), "[United States: Language and Education](#)," accessed January 30, 2024.
- 3 U.S. Department of Justice (DOJ), "[Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons](#)," *Federal Register* 67, no. 117 (2002): 41455.
- 4 DOJ, "Guidance to Federal Financial Assistance Recipients," 41458.
- 5 Government Accountability Office (GAO), *Language Access: Selected Agencies Can Improve Services to Limited English Proficient Persons* (Washington, DC: GAO, 2010); GAO, *Transportation Services: Better Dissemination and Oversight of DOT's Guidance Could Lead to Improved Access for Limited English-Proficient Populations* (Washington, DC: GAO, 2005); GAO, *Child Care and Early Childhood Education: More Information Sharing and Program Review by HHS Could Enhance Access for Families with Limited English Proficiency* (Washington, DC: GAO, 2006); Jacob Hofstetter and Margie McHugh, "[Improving Language Access in Federal Programs: Recommendations for the Task Force on New Americans](#)" (recommendations, MPI, Washington, DC, March 2023); MPI, "[Improving Language Access in Federal Programs: What Is the State of Play?](#)" (webinar, MPI, Washington, DC, October 11, 2023); National Immigration Law Center, *Reducing Barriers, Improving Outcomes: Using Federal Opportunities to Expand Health-Care Access for Individuals with Limited English Proficiency* (Washington, DC: National Immigration Law Center, 2023).
- 6 For example, see the following compiled enforcement actions from LEP.gov: DOJ, "[Education](#)," accessed February 15, 2024; DOJ, "[Housing](#)," accessed February 15, 2024; DOJ, "[Labor and Employment](#)," accessed February 15, 2024; DOJ, "[Law Enforcement](#)," accessed February 15, 2024; DOJ, "[Public Benefits and Health](#)," accessed February 15, 2024.

- 7 For example, see Center for Popular Democracy, *Language Access in New York State: A Snapshot from a Community Perspective* (New York: Center for Popular Democracy and Make the Road New York, 2013); Meredith Higashi et al., *Interpreting Justice: Progress and Challenges on Language Access* (Washington, DC: National Asian Pacific American Bar Association, 2017); Christine Monahan, Jalisa Clark, and Nadia Stovicek, “Uneven Ground: Differences in Language Access across State-Based Marketplaces” (issue brief, The Commonwealth Fund, New York, 2023); Teresa Neumann, Grace Rock, and Christine George, *Falling Flat: The Chicago Housing Authority’s Inadequate Implementation of Their Language Access Plan* (Chicago: The Jane Addams Senior Caucus, 2019); Massachusetts Appleseed Center for Law and Justice, *Families Torn Apart: Language-Based Discrimination at the Massachusetts Department of Children and Families* (Boston: Massachusetts Appleseed Center for Law and Justice, 2021); National Health Law Program, “Civil Rights Complaint Filed over Discriminatory Provision of COVID-19 Services to Persons with Limited English Proficiency” (news release, April 30, 2021); Jennifer Tran et al., “Assistance Denied: Examining California’s Emergency Rental Relief Program in the Bay Area,” Bay Area Equity Atlas, July 22, 2022; Latino Justice, “Civil and Immigrant Rights Advocates Sue Nassau Police for Denying Language Assistance to Non-English Speakers” (news release, July 18, 2023); Legal Aid Foundation of Los Angeles, “Language Rights Advocates Reach Agreement with CA Employment Development Department” (news release, February 28, 2022); Gabrielle Lessard and Ben D’Avanzo, *Improving Access to Medicaid for People with Limited English Proficiency* (Washington, DC: National Immigration Law Center, 2024).
- 8 *Civil Rights Act of 1964*, Public Law 88-352, U.S. Statutes at Large 78 (1964).
- 9 DOJ, “Guidance to Federal Financial Assistance Recipients,” 41458.
- 10 *Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964*, 28 Code of Federal Regulations Subpart C, 42.104, 1077.
- 11 The President, “Executive Order 13166 of August 11, 2000: Improving Access to Services for Persons with Limited English Proficiency,” *Federal Register* 65, no. 159 (August 16, 2000): 50121; DOJ Civil Rights Division, *Title VI Legal Manual* (Washington, DC: DOJ, n.d.), 14.
- 12 The President, “Executive Order 13166.”
- 13 U.S. Department of Health and Human Services (HHS) Office of Minority Health, “Health Equity Timeline,” accessed February 9, 2024; Attorney General Eric Holder, “Federal Government’s Renewed Commitment to Language Access Obligations under Executive Order 13166” (memorandum to the heads of federal agencies, general counsels, and civil rights heads, Office of the Attorney General, Washington, DC, February 17, 2011); Attorney General Merrick Garland, “Strengthening the Federal Government’s Commitment to Language Access” (memorandum to the heads of federal agencies, heads of civil rights offices, and general counsels, Office of the Attorney General, Washington, DC, November 21, 2022). See also [LEP.gov](https://www.leg.gov) for links to federal agencies’ updated language access plans.
- 14 The President, “Executive Order 13166.” For more information on language access in the immigration system, see: Zefitret Abera Molla, “Improving Language Access in the U.S. Asylum System,” Center for American Progress, May 25, 2023; Tom Jawetz and Scott Shuchart, “Language Access Has Life-or-Death Consequences for Migrants,” Center for American Progress, February 20, 2019; American Civil Liberties Union, “ACLU, Advocates Demand U.S. Government Reverse Policy That Discriminates against Non-English Speaking Asylum Seekers” (news release, November 30, 2023); Cristobal Ramón and Lucas Reyes, “Language Access in the Immigration System: A Primer,” Bipartisan Policy Center, September 18, 2020; Lauren Abel, *Language Access in Immigration Courts* (New York: Brennan Center for Justice, 2011); Joseph Darius Jaafari, “Immigration Courts Getting Lost in Translation,” The Marshall Project, March 20, 2019.
- 15 For more details, see DOJ, “Guidance to Federal Financial Assistance Recipients,” 41464–65.
- 16 HHS, “HHS Takes Action to Break Language Barriers” (news release, October 6, 2022).
- 17 HHS, “HHS Releases Report to Increase Language Access for Persons with Limited English Proficiency” (news release, May 24, 2023); DOJ, “Language Access Program,” accessed February 12, 2024.
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- 19 DOJ Civil Rights Division, *Title VI Legal Manual*, 14.
- 20 DOJ, “Guidance to Federal Financial Assistance Recipients,” 41459.
- 21 DOJ Civil Rights Division, *Title VI Legal Manual*, 25–26.
- 22 U.S. Department of Education Office for Civil Rights, “Equal Educational Opportunities for English Learners,” updated April 23, 2024.
- 23 DOJ Civil Rights Division, “Communication to Chief Justices and State Court Administrators Regarding Language Access” (letter, August 2010, reissued 2018). See also DOJ, *Language Access in State Courts* (Washington, DC: DOJ, 2016).
- 24 For more information, see [LEP.gov](https://www.leg.gov).
- 25 See, for example, U.S. Department of Education, “Assurance of Compliance—Civil Rights Certificate” (assurance of compliance form OMB Approval No. 1870-0503, U.S. Department of Education, Washington, DC, n.d.); HHS, “Assurance of Compliance” (assurance of compliance form HHS-690, HHS, Washington, DC, March 2011).
- 26 For links to file complaints, see DOJ Federal Coordination and Compliance Section, “File a Title VI Complaint,” [LEP.gov](https://www.leg.gov), accessed February 15, 2024.
- 27 For example, see HHS Office for Civil Rights, “What to Expect,” updated June 16, 2017; U.S. Department of Education Office for Civil Rights, *Case Processing Manual* (Washington, DC: U.S. Department of Education, July 18, 2022).
- 28 DOJ, “Guidance to Federal Financial Assistance Recipients,” 41466.
- 29 Maki Park, Jacob Hofstetter, and Ivana Tú Nhi Giang, *Overlooked but Essential: Language Access in Early Childhood Programs* (Washington, DC: MPI, 2022), 7.

- 30 U.S. Department of Labor, “Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act,” *Federal Register* 81, no. 232 (December 2, 2016): 87223.
- 31 See, for example, GAO, *Language Access*; GAO, *Transportation Services*; GAO, *Child Care and Early Childhood Education*; Hofstetter and McHugh, “Improving Language Access in Federal Programs: Recommendations for the Task Force on New Americans”; MPI, “Improving Language Access in Federal Programs: What Is the State of Play?”; National Immigration Law Center, *Reducing Barriers, Improving Outcomes*.
- 32 DOJ Civil Rights Division, “Communication to Chief Justices and State Court Administrators”; U.S. Department of Agriculture (USDA) Food and Nutrition Service, “Meaningful Access for Persons with Limited English Proficiency (LEP) in the School Meal Programs: Guidance and Q&As” (memorandum SP 37-2016, USDA, Washington, DC, May 26, 2016).
- 33 DOJ, “Guidance to Federal Financial Assistance Recipients,” 41466–72.
- 34 U.S. Department of Labor, “Civil Rights Center; 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,” *Federal Register* 68, no. 103 (2003): 32290.
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- 36 For example, see MPI, “United States: Language and Education,” which uses data from the U.S. Census Bureau’s American Community Survey.
- 37 DOJ, “Guidance to Federal Financial Assistance Recipients,” 41460.
- 38 DOJ, “Guidance to Federal Financial Assistance Recipients,” 41459.
- 39 The closest direct requirement in agencies’ LEP guidance is the “safe harbor” for translating written materials, first described in the DOJ guidance, which sets a basic threshold for translating documents that (sub)recipients of federal funding should follow to be considered in compliance. This threshold, however, is neither binding nor enforceable, meaning that recipients are not actually required to follow through with this suggested mode of compliance. At the same time, the safe harbor is a useful example of what more specific compliance approaches could and should look like, as is explored in the recommendations section. For more information, see DOJ, “Guidance to Federal Financial Assistance Recipients,” 41463–64.
- 40 HHS, “Nondiscrimination in Health Programs and Activities,” *Federal Register* 89, no. 88 (May 6, 2024): 37522.
- 41 U.S. Department of Labor, “Implementation of the Nondiscrimination and Equal Opportunity Provisions.”
- 42 Ben Leonard et al., “Budget Woes at HHS’s Civil Rights Office,” *Politico*, March 17, 2023.
- 43 Copies of settlement agreements from civil rights investigations can be found on [LEP.gov](https://www.lep.gov) as well as the webpages of some agencies’ civil rights offices.
- 44 In 2001, the Supreme Court ruled in *Alexander v. Sandoval* that individuals cannot bring legal action under the *Civil Rights Act* based on disparate impact. Instead, individuals must show that they have experienced intentional discrimination based on their national origin or other protected category. For more information, see *Alexander v. Sandoval*, No. 99-1908 (Supreme Court, 2001).
- 45 See *Alexander v. Sandoval*.
- 46 DOJ Civil Rights Division, *Title VI Legal Manual*, 14.
- 47 DOJ Civil Rights Division, “Communication to Chief Justices and State Court Administrators”; USDA Food and Nutrition Service, “Meaningful Access for Persons with Limited English Proficiency”; U.S. Department of Labor, “State Responsibilities for Ensuring Access to Unemployment Insurance Benefits, Services, and Information” (memorandum from John Pallasch and Naomi Barry Perez, May 11, 2020); HUD, “Office of Fair Housing and Equal Opportunity (FHEO) Guidance on Compliance with Title VI of the Civil Rights Act in Marketing and Application Processing at Subsidized Multifamily Properties” (policy guidance, HUD, April 21, 2022).
- 48 DOJ, “Justice Department Announces New Language Access Law Enforcement Initiative” (press release, December 19, 2022); Kristen Clarke, Assistant Attorney General, U.S. Department of Justice Civil Rights Division, *letter to law enforcement colleagues*, December 12, 2023.
- 49 DOJ, “Guidance to Federal Financial Assistance Recipients,” 41463–64.
- 50 U.S. Department of the Treasury, “Assurances of Compliance with Civil Rights Requirements” (assurance of compliance form OMB Approved No. 1505-0271, Department of the Treasury, Washington, DC, n.d.).
- 51 DOJ Office of Justice Programs, “Civil Rights Requirements Associated with OJP Awards,” updated October 5, 2022.
- 52 HHS, *Language Access Plan 2023*, 29.
- 53 In cases where applicants wish to argue that such measures are not necessary (e.g., their public-facing programs will not encounter any LEP individuals), applicants should be required to justify their determination that language access measures are not needed.
- 54 HHS Administration for Children and Families, Office of Head Start, *Appendix to the Head Start Program Performance Standards: 45 CFR Chapter XIII, September 2016* (Washington, DC: HHS, 2016), 140.
- 55 HHS, *Language Access Plan 2023*, 29.
- 56 Ben D’Avanzo and Gabrielle Lessard, “New Policies Strengthen Language Access Protections in Health,” National Immigration Law Clinic, April 30, 2024.

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