

translate will depend on application of the four factors. In this context, vital information may include, for instance, the provision of information in appropriate languages other than English, or identifying where a LEP person might obtain an interpretation or translation of the document. However, depending on the circumstances, large documents such as enrollment handbooks may not need to be translated or may not need to be translated in their entirety.

9. Q. May an LEP person use a family member or friend as his or her interpreter?

A. Some LEP persons may feel more comfortable when a trusted family member or friend acts as an interpreter. When an LEP person attempts to access the services of a recipient of federal financial assistance, who upon application of the four factors is required to provide an interpreter, the recipient should make the LEP person aware that he or she has the option of having the recipient provide an interpreter for him/her without charge, or of using his/her own interpreter. Recipients should also consider the special circumstances discussed in the guidance that may affect whether a family member or friend should serve as an interpreter, such as whether the situation is an emergency, and concerns over competency, confidentiality, privacy, or conflict of interest.

10. Q. May a recipient/covered entity require a LEP person to use a family member or a friend as his or her interpreter?

A. No.

11. Q. How does low health literacy, non-literacy, non-written languages, blindness and deafness among LEP populations affect the responsibilities of federal fund recipients?

A. Effective communication in any language requires an understanding of the literacy levels of the eligible populations. However, where a LEP individual has a limited understanding of health matters or cannot read, access to the program is complicated by factors not generally directly related to national origin or language and thus is not a Title VI issue. Under these circumstances, a recipient should provide remedial health information to the same extent that it would provide such information to English-speakers. Similarly, a recipient should assist LEP individuals who cannot read in understanding written materials as it would non-literate English-speakers. A non-written language precludes the translation of documents, but does not affect the responsibility of the recipient to communicate the vital information contained in the document or to provide notice of the availability of oral translation. Of course, other law may be implicated in this context. For instance, Section 504 of the Rehabilitation Act of 1973 requires that federal fund recipients provide sign language and oral interpreters for people who have hearing impairments and provide materials in alternative formats such as in large print, braille or on tape for individuals with visual impairments; and the Americans with Disabilities Act imposes similar requirements on health and human service providers.

12. Q. What assistance is available to help to recipients who wish to come into compliance with Title VI?

A. For over three decades, OCR has provided substantial technical assistance to recipient/covered entities who are seeking to ensure that LEP persons can meaningfully access their programs or services. Our regional staff is prepared to work with recipients to help them meet their obligations under Title VI. As part of its technical assistance services, OCR can help identify best practices and successful strategies used by other federal fund recipients, identify sources of federal reimbursement for translation services, and point providers to other resources.

In addition, the entire Department is also committed to assisting recipients of HHS financial assistance in complying with their obligations under Title VI of the Civil Rights Act of 1964. Through its Administration on Children and Families, Administration on Health Care Quality and Research, Administration on Aging, Centers for Medicare and Medicaid Services, Health Resources and Services Administration, Office for Civil Rights, Office of Minority Health and Substance Abuse and Mental Health Services Administration, HHS provides a variety of practical technical assistance to recipients to assist them in serving LEP persons. This technical assistance includes translated forms and vital documents; training and information about best practices; and grants and model demonstration funds for LEP services. HHS believes that, on the whole, its recipients genuinely desire to comply with their obligations, and that increased understanding of compliance responsibilities and knowledge about cost-effective resources that are increasingly available to them, will assist recipients/covered entities in meeting Title VI obligations. Accordingly, HHS is committed to providing outreach to its recipients and to being responsive to queries from its recipients. It is also committed to working with representatives of state and local health and social service agencies, organizations of such agencies, hospital associations, medical and dental associations and managed care organizations to identify and share model plans, examples of best practices, cost-saving approaches, and information on other available resources, and to mobilize these organizations to educate their members on these matters. HHS will continue to promote best practices in language access and fund model demonstration programs in this area. The HHS Office for Civil Rights, in conjunction with other HHS components, will continue to provide technical assistance and outreach to HHS recipients to assist them in understanding and complying with their obligations under Title VI and to provide information to recipients and the public through its Web site at <http://www.hhs.gov/ocr>. LEP information and resources can also be found at <http://www.lep.gov>.

13. Q. How will OCR enforce compliance by recipient/covered entities with the LEP requirements of Title VI?

A. The goal for Title VI and Title VI regulatory enforcement is to achieve voluntary compliance. The requirement to take reasonable steps to provide meaningful access to LEP persons is enforced and

implemented by OCR through the procedures identified in the Title VI regulations. These procedures include complaint investigations, compliance reviews, efforts to secure voluntary compliance, and technical assistance.

The Title VI regulations provide that OCR will investigate whenever it receives a complaint, report, or other information that alleges or indicates possible noncompliance with Title VI or its regulations. If the investigation results in a finding of compliance, OCR will inform the recipient in writing of this determination, including the basis for the determination. However, if a case is fully investigated and results in a finding of noncompliance, OCR must inform the recipient of the noncompliance through a Letter of Findings that sets out the areas of noncompliance and the steps that must be taken to correct the noncompliance. It must attempt to secure voluntary compliance through informal means. If the matter cannot be resolved informally, OCR may secure compliance through the termination of federal assistance after the recipient has been given an opportunity for an administrative hearing. OCR may also refer the matter to the Department of Justice to secure compliance through any other means authorized by law.

At all stages of an investigation, OCR engages in voluntary compliance efforts and provides technical assistance to recipients. During these efforts, OCR proposes reasonable timetables for achieving compliance and consults with and assists recipients in exploring cost-effective ways of coming into compliance. In determining a recipient's compliance with the Title VI regulations, OCR's primary concern is to ensure that the recipient's policies and procedures contain reasonable steps to provide meaningful access for LEP persons to the recipient's programs, activities or services. As a result, the vast majority of all complaints have been resolved through such voluntary efforts.

14. Q. Does issuing this guidance mean that OCR will be changing how it enforces compliance with Title VI?

A. No. How OCR enforces Title VI is governed by the Title VI implementing regulations. The methods and procedures used to investigate and resolve complaints, and conduct compliance reviews, have not changed.

15. Q. What is HHS doing to promote access for LEP persons to its own programs and services?

A. HHS provides a variety of services for LEP persons who come in contact with the Department. These services include oral language assistance services such as language lines and interpreters; translation of written materials; and foreign language web sites. HHS will continue to explore how it can share with its recipients language assistance measures, resources, cost-containment approaches, and other information and knowledge, developed with respect to its own federally conducted programs and activities, and welcomes any suggestions in this regard.

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