

**OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management**

MEMORANDUM OM 03-69

April 7, 2003

TO: All Regional Directors, Officers-in-Charge, and Resident Officers

FROM: Richard A. Siegel, Associate General Counsel

SUBJECT: Executive Order 13166 - "Improving Access to Services for Persons with Limited English Proficiency"

Executive Order 13166 establishes a number of goals for federal agencies serving a public that includes more and more individuals who may be limited in their English proficiency. (See <http://www.lep.gov/>) for more information on this initiative). The field offices are the first point of contact for individual employees, employers and unions who are seeking assistance from the National Labor Relations Board regarding workplace issues. It is essential that individuals who are not proficient in the English language be provided meaningful access to our processes from the time they first speak to an Information Officer to the time their matters are resolved. This is a challenge that the field offices must meet every day.

To assist you in meeting that challenge we continue to make particular effort to recruit qualified bilingual personnel in areas with high non-English speaking populations and have been very successful in these efforts. Over 100 of the approximately 1000 nonsupervisory field professional and support staff employees in Agency field offices are fully bilingual. Many more are functionally proficient in a second language. Regional offices in areas with large Hispanic populations provide a Spanish language version of their automated telephone message providing a description of the Agency and its functions.

In addition, when offices have more bilingual work than they can effectively handle, the Agency has used the "Interregional Assistance Program" to shift cases to offices with bilingual staff to provide casehandling and translation assistance. Non-English speaking individuals appearing at the Regional Offices are referred to a bilingual employee for assistance or, if a bilingual employee is not available on site, the Region obtains telephonic assistance from another Regional Office. (See OM 99-77.) Several regional offices have established contacts with local foreign consulates, universities, and Hispanic, Asian, Arabic and Eastern European community groups to obtain further translation assistance. The Agency also participates with other labor and employment-related federal agencies in Worker Exploitation Task Forces organized by the Department of Justice at the national level for the purpose of, among other things, reaching out to and addressing the special needs of workers, including workers with limited English proficiency.

We have also incorporated into our training curriculum for professional employees techniques for effectively and sensitively handling the challenges involved in dealing with non-English speaking parties¹.

Publications

Currently the NLRB provides Agency publications in both print (available for sale through the Government Printing Office) and electronic format (via the Agency's Web site). In addition to English, the Agency also provides five publications in Spanish in print format (The Text of the National Labor Relations Act; A Guide to Basic Law and Procedures under the National Labor Relations Act; Your Government Conducts an Election; The NLRB and You (Representation); and The NLRB and You (Unfair Labor Practices). The same publications are available in Spanish

via our Web site, with the exception of The Text of the National Labor Relations Act. During FY 2001, the Agency also made available, in electronic format, A Guide to Basic Law and Procedures under the National Labor Relations Act in Chinese (Mandarin).

Budget funds permitting, an Agency priority is to provide The Text of the National Labor Relations Act and Your Government Conducts an Election in Chinese (Mandarin) this fiscal year and two publications each fiscal year thereafter until all our publications are available in the three languages (other than English and Spanish) most needed by our customers: Chinese Mandarin, Korean, and Vietnamese.

Forms

The Agency currently provides 41 case handling forms in Spanish. These forms are used in conducting elections and investigating charges of unfair labor practices. In addition, the NLRB also provides election notices in the following languages:

Arabic	Italian
Bengali	Japanese
Bosnian	Korean
Cambodian	Laotian
Chinese	Portugese
Creole	Punjab
Czech	Rumanian
Ethiopian	Russian
French	Samoan
German	Tagalog
Greek	Thai
Haitian Creole	Tonga
Hindi	Vietnamese
Hmong	

In order to ensure that the public with whom we deal knows of the assistance available from the National Labor Relations Board for persons with limited English proficiency, notification should be provided in the initial docketing letters sent to the parties.² Parties should be advised that requests for such assistance should be communicated to the NLRB as early in the course of the proceeding as possible.

We are very proud of the services we have been able to provide to those who are not proficient in the English language. I want to take this opportunity to express my gratitude to all field employees and in particular those who make their bilingual skills available for the benefit of the Agency and the public. Finally, we want to continue to enhance our accessibility to the non-English speaking public. It is our plan to consult with regional managers in offices with a large number of cases requiring bilingual skills to develop other tools for improving accessibility. Deputy Assistant General Counsel Helen Marsh will be heading up this effort. Should you have any ideas or suggestions, please share them with your AGC, Deputy, Helen or the undersigned.

/s/
R.A.S.

cc: NLRBU
Release to the Public

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¹ We are aware that administrative law judges training also incorporates such materials.

² While this notification will not effectively inform a non-English Speaker that assistance will be made available to him or her, any translation assistance that person receives concerning the docketing letter will communicate that message.

FEDERAL REGISTER

Vol. 65, No. 159

Presidential Documents

PRESIDENT OF THE UNITED STATES

Executive Order 13166 of August 11, 2000**Title 3****The President****Improving Access to Services for Persons With Limited English Proficiency**

Part IV

65 FR 50121

DATE: Wednesday, August 16, 2000

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.

S WILLIAM J. CLINTON

THE WHITE HOUSE,

August 11, 2000.