



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

January 11, 2002

MEMORANDUM FOR HEADS OF FEDERAL GRANT AGENCIES
GENERAL COUNSELS AND CIVIL RIGHTS DIRECTORS

FROM: Ralph F. Boyd, Jr.
Assistant Attorney General
Civil Rights Division

SUBJECT: Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency)

I am writing to encourage agencies to expedite their work on limited English proficiency (LEP) guidance documents in order to be in a position to meet the 120-day deadline set forth in my memorandum dated October 26, 2001. A copy of that memorandum is attached.

BACKGROUND

On October 26, 2001, I issued a memorandum to clarify policy guidance issued by the Department of Justice (DOJ) entitled "Enforcement of Title VI of the Civil Rights Act of 1964 - National Origin Discrimination Against Persons With Limited English Proficiency." 65 F.R. 50123 (August 16, 2000) (DOJ LEP Guidance). That policy guidance had been issued to set forth general principles for agencies to apply in developing guidance on how their recipients can provide meaningful access to LEP persons and, therefore, comply with the Title VI disparate-impact regulations, as required by Executive Order 13166.

The memorandum instructed agencies that had issued LEP guidance for their recipients pursuant to Executive Order 13166 and Title VI of the Civil Rights Act to notify the Department of Justice, publish a notice asking for public comment on the guidance documents they have issued, and, if necessary, clarify or modify its existing guidance. Agencies that had not yet published guidance documents were to submit agency-specific guidance to the Department of Justice. Following review by the Department of Justice and before finalizing their guidance, the agencies were to obtain public comment on their proposed guidance documents.

FURTHER AGENCY ACTION

The Department of Justice has learned that some agencies that had previously published LEP guidance had obtained significant public comment on those materials following the original publication of that guidance. The Department therefore believes that it is appropriate for these agencies to expedite their review of their existing guidance in light of the comment they have already received and the Department's October 26 memorandum. These agencies should notify the Department of Justice of any need to clarify or modify existing guidance by January 25, 2002.

Other agencies, however, have not yet obtained significant public comment on their previously published guidance. These agencies should immediately publish a request for comment on their existing guidance documents. In addition, they should expedite their review of their existing guidance in light of the comment they will obtain and notify the Department of Justice of any need to clarify or modify existing guidance as soon as possible.

If it is determined that an agency's existing guidance should be clarified or modified, that agency should seek public comment on any proposed revisions before making them final.

Finally, for those agencies that have not previously published LEP guidance documents, I request them to expedite their drafting of LEP guidance documents and to submit them to the Department of Justice as soon as possible. Following review by the Department and before finalizing its guidance, each of these agencies must then publish its agency-specific LEP guidance documents for public comment.

My October 26 memorandum requested that all new LEP guidance documents be published in final form by February 25th, 2002. Because many agencies have not yet submitted their guidance documents to the Department of Justice for review or taken steps to obtain public comment, I am concerned that they may have difficulty meeting this deadline. I thus request that all such agencies expedite their consideration of this matter and notify the Department regarding the status of their progress regarding the development of LEP guidance by January 22, 2002.

The DOJ's Civil Rights Division, Coordination and Review Section ((202) 307-2222), stands ready to assist agencies in this matter.