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Naomi Meyer
C/o Language Access Coalition
Greater Boston Legal Services
197 Friend Street
Boston, MA 02114

Dear Naomi:

Thank you for sharing, on behalf of the Language Access Coalition, your thoughts regarding how better to strengthen ANF Administrative Bulletin #16, the Commonwealth's Language Access Policy and Guidelines. As you know, the development and implementation of Language Access Guidelines in the Commonwealth was, and remains, an important priority of mine. As you might imagine, I read with great interest the thoughts of the Language Access Coalition.

I am in the process of updating the Language Access Guidelines (Guidelines). My goal is to have the revised ANF Administrative Bulletin submitted for internal vetting as of this week. In anticipation of my submission, I wanted to provide you an insight into what to expect from the new Guidelines should they be adopted absent further revision in response to executive branch agency concerns.

Lowering the threshold; Updating data and Deepening Analysis of LEP Populations

As you acknowledge, many (if not most) executive branch agencies are subject to federal guidance relative to language access. ANF Administrative Bulletin #16 was designed to accomplish two primary objectives, each which is equally important to the other: (1) creating a baseline expectations of access across the executive branch and (2) creating critical momentum through which executive branch agencies, which had not made much progress vis-à-vis language access expectations that have been in place since at least the early 1990s, could advance towards ensuring equal access to state services, programs and activities on the part of Limited English Proficient (LEP) individuals. These remain my two primary objectives. As such, my responses to the suggestions put forward by the Language Access Coalition appear below:

- I anticipate the threshold will remain static at five percent (5%). While it is true that the only language, on a statewide basis, that meets or exceeds the threshold is Spanish, I should point out that a regional level, it is likely that additional languages meet and/or exceed this threshold. Additionally, as you know, for any agency subject to federal guidance, the trigger is more aggressive than the state threshold.

- The Language Access Guidelines will be revised such that they require the use of 2010 American Community Survey as the baseline data. The Guidelines will also encourage agencies to use other public data sources in order to develop language access plans that reflect current demographics of and within the Commonwealth. The Office of Access and Opportunity will not provide data to agencies unless agencies request assistance.
- The Language Access Guidelines will not be revised to encompass eligible populations as the basis for agencies development of their language access plans. The “need” referenced in your letter really speaks to the ability to provide meaningful access to those who are or become clients to an agency. Adopting a more comprehensive standard would, at this time, I believe, be counterproductive to ensuring that the needs of current and would be clients are met.
- Your letter, mistakenly, identifies that agencies do not have a responsibility to look at LEP populations beyond a statewide snapshot. Under the current and revised Guidelines, agencies have an obligation to apply the five percent (5%) threshold at a regional level when and where the agency operates a regional service delivery model. While I understand your point regarding the presentation of data within a Language Access Plan, I would submit that this is not the true test of whether the agency is failing to apply the regional standard. The true test is when and where a language meets or exceeds the threshold at the regional level and the agency is failing to meet its obligations under the Guidelines.
- I strongly considered adopting universal access relative to oral interpretation within the Guidelines. I was/am personally sympathetic to such an approach; however, in the end, I could not get there. My biggest concern is that universal access would create a scenario where the promise of access, as measured by universal interpretation, is subsequently undercut by less than universal access with respect to written translation.

Detailing Basic Expectations for Language Services

While I believe the Guidelines are fairly explicit in such basic expectations, I will look at how and where the basic expectations can be made more explicit. I should point out that the current Guidelines do state explicitly that the agency bears the responsibility for the reasonable provision of language access services (and not the LEP individual). This explicit guidance will remain in the revised Guidelines.

Emphasizing Federal Requirements for Agencies subject to them

I appreciate the sentiment behind this recommendation; however, I should point out that the current Guidelines do make this point to agencies. Additionally, in additional guidance to agencies, delivered in the form of an addendum to the Administrative Bulletin and in the form of FAQ document, agencies were made aware that they may be subject to federal requirements.

Promoting Best Practices and Collaboration

I am happy to share additional information with agencies. Although, I should point out that additional information was shared with agencies. Specifically, agencies were given the federal LEP website (www.LEP.gov) as a means to further enhance agency staff understanding of LEP issues, resources and federal expectations. However, I am happy to look to expand the offerings shared with agencies.

Budget Constraints

Your recommendation relative to what an agency has to do to demonstrate budget constraints as the basis for limited or stalled implementation of its Language Access Plan will not be adopted. The Office of Access and Opportunity is not equipped to challenge an agency’s statement as to lack of budget resources.

Dissemination of and public access to LAPs

The Guidelines will be amended such that each agency is directed to place its Language Access Plan on its website.

Website content

This matter will be taken under advisement. While many translation services, such as Google Translate, offer an ability to translate web pages into additional languages, the reliability of such translations remains an open question and point of contention. The best I can pledge is that this issue will be elevated in the next cycle of development and implementation of Language Access Plans.

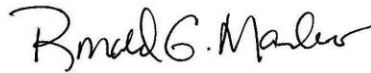
Timeline for Implementation

I am not aware of an instance where an agency has not implemented its language access plan nor has any client or advocacy organization brought to my attention an instance where an agency failed to implement its language access plan. If you are aware of an instance where an agency has not implemented its language access plan, please bring this to my attention.

I appreciate the comments, suggestions and recommendations submitted by the Language Access Coalition.

My goal, which I know is your goal as well, is to advance to an environment where no person is denied access because of an inability to speak or read English proficiently. I look forward to continuing to work with you and members of the Coalition.

Sincerely



Ronald G. Marlow
Assistant Secretary for Access and Opportunity