



ADMINISTRATIVE OFFICE of PENNSYLVANIA COURTS

ADVISORY RE: TITLE VI OF THE CIVIL RIGHTS ACT

As a recipient of federal funds, the Unified Judicial System (UJS), including every judicial district, is required to adhere to Title VI of the federal Civil Rights Act of 1964. In furtherance of diligent compliance with Title VI, the UJS is committed to ensuring meaningful access to all limited English proficient (“LEP”) users of judicial services. To that end, the Supreme Court of Pennsylvania in March 2017 adopted a Language Access Plan (“LAP”) for the UJS (<http://www.pacourts.us/assets/files/setting-5486/file-5972.pdf?cb=11e5cd>).

The purpose of this advisory is to aid judicial districts as they endeavor to administer their programs and activities consistent with the requirements of Title VI and UJS policy as they relate to individuals’ national origin and inquiries about federal immigration status.

Title VI & UJS Policy

Under Title VI, “[n]o person in the United States shall, on the ground of race, color, or ***national origin***, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d (emphasis added).

The LAP mandate that courts provide meaningful language access for all LEP individuals is designed “to ensure that all persons have due process and equal access to all judicial proceedings, court services, programs and activities. Ensuring meaningful language access,” the LAP explains, “means providing timely, accurate, and effective language services at no cost.” (LAP, p.2).

An inquiry by a judicial officer or employee into the federal immigration status of an individual based on language ability or otherwise on the basis of an individual’s perceived national origin may be regarded as *discrimination* and possibly a violation of Title VI. Discrimination is a particular concern in those matters in which an individual’s immigration status is not relevant to the matter before the court or judicial agency.

Potential violation of Title VI for discrimination on the basis of national origin arises when (1) a court’s decision to inquire into immigration status is influenced by an individual’s actual or perceived national origin; and (2) the inquiry reasonably might result in the denial of access to court programs or

activities. Potential Title VI liability can be triggered, for example, if a court's policy or practice of inquiring into an individual's immigration status reasonably could have a chilling effect on an individual seeking or accepting the language assistance to which he or she is entitled under Title VI and the LAP.

Suggested Practice

It is best practice not to make inquiry into a court user's federal immigration status, unless immigration status is relevant to the matter before the court or judicial agency.

When determining whether it is appropriate to provide an interpreter, it is best practice simply to assess how comfortable an LEP court user is in speaking English. Immigration status is not relevant to this assessment.

AOPC has provided judicial bench cards that include a sample *voir dire* to aid judicial officers in determining language access needs. See <http://www.pacourts.us/assets/files/page-139/file-6226.pdf?cb=1528136497487>. By using the bench cards, a judicial officer most assuredly can provide appropriate language access without discriminating on the basis of national origin.

Questions

Questions relating to this advisory may be directed to AOPC's Legal Department (c/o Chief Counsel Gregory Dunlap at (717) 231-3286 or gregory.dunlap@pacourts.us).

Questions about the UJS Language Access Policy may be directed to Mary Vilter, AOPC Coordinator of Court Access, at (215) 560-6657 or mary.vilter@pacourts.us.