Chapter 3
Serving Constituents with Limited English Proficiency (LEP) in the U.S.: Challenges and Implications for Local Government Websites

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ABSTRACT

This chapter evaluates the implementation by local government websites of President William Jefferson Clinton’s Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP) (Clinton, 2000). The purpose of Executive Order 13166 is to facilitate access to federally funded services. In the U.S., local governments are the most important basic service providers. This assessment is fundamentally important in light of the growing number of non-English speakers who reside in the country. The chapter looks at a diverse set of local governments and focuses on availability of information in Spanish, by far the predominant non-English language, spoken in about 12 percent of households in the U.S. in 2006. Government Web pages are assessed in terms of the degree to which 10 key government service areas are accessible in Spanish. The chapter identifies best practices for governments to make sites accessible to individuals with limited English proficiency.

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INTRODUCTION

If we humans are in fact what we read, a substantial share of U.S. citizens and residents fall short of their potential because important information located on local government websites is unintelligible: these websites lack accessibility to persons with limited English proficiency. The largest effected group in the U.S. are immigrants new to English, and little research has been directed at this group. In many other countries, such as the E.U. member states, research has focused on the issues mostly concerning languages spoken by indigenous peoples (Oeter, 2007).

President William Jefferson Clinton responded to this condition when he issued Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP), in August 2000 (Clinton, 2000). The goals of the Executive Order include facilitating access to services funded by the federal government and assisting individuals with LEP in their development of English language skills. The order requires all entities accepting federal funds to be accessible to persons with LEP, and notes general criteria, that is, numbers of persons with LEP and the critical nature of access among others. Yet, there are only limited guidelines and, to our knowledge, no federal actions to force compliance. However, as the U.S. continues to grow more diverse, the importance of language accessibility will increase. This chapter investigates local government actions in this arena and seeks to identify best practices that local governments, seeking to provide cost effective services to persons with LEP, might employ. Spanish language speakers and websites are the primary focus of the chapter because these individuals represent the predominant non-English language group in the U.S.

BACKGROUND

The relationship between language and the roles and rights of the governed is the focus of a relatively limited body of literature. This section briefly reviews the most relevant of this literature with regard to the present study. Brugger (1996) and Arzoz (2007) both credit German jurist Georg Jellinek with a system of categorizing human rights. Brugger, who traces the development of human rights to the American and French revolutions, summarizes three types or categories of rights: status negativus, most simply, liberty; status activus, the right to participate in the democratic process; and status positivus, relating to social and economic freedoms (1996, p. 597).

The specific issue of language rights is addressed by Xabier Arzoz (2007):

The theory of fundamental rights distinguishes three basic functions (which correspond to three basic normative structures) in the relation between the individual and the state: status negativus, status positivus and status activus (Pieroth and Schlink, 2003). The status negativus concerns freedom from interference from the state. The status positivus refers to the circumstances in which the individual cannot enjoy freedom without the active intervention of the state: one of the most important rights belonging to the status positivus is judicial protection, but it also extends nowadays to many forms of social protection and social services (schooling, housing, health care and so on). The status activus refers to the exercise of the individual’s freedom within and for the state. These concepts, which have been construed to structure the relation of the individual and the state, also provide a useful analytical tool to approach the special needs of protection of minorities’ characteristics (status positivus) and of institutional representation and participation of minorities (status activus) (Enke, 1931). The underlying idea
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