

FACT SHEET: FAIR HOUSING & EQUAL TREATMENT FOR PEOPLE WITH LIMITED ENGLISH PROFICIENCY (LEP)



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What is fair housing? Fair housing is the right to choose housing free from unlawful discrimination. The federal Fair Housing Act and Michigan laws protect people from discrimination in housing based on **race**, color, religion, sex, **national origin**, familial status, disability, marital status, and age. Discrimination is illegal in housing transactions such as rentals, sales, lending, and insurance.

In 2016, the US Department of Housing and Urban Development published “Office of General Counsel Guidance on Fair Housing Act Protections for Persons with Limited English Proficiency (LEP)”. This guidance is important because over 25 million persons (9%) in the US are LEP, which refers to a person’s limited ability to read, write, speak, or understand English.

What does the Limited English Proficiency guidance mean for housing providers? HUD clarifies that housing providers are not allowed to take adverse actions – such as a refusal to rent or renew a lease – based on an individual’s limited ability to read, write, speak or understand English. Although LEP status is not a protected class under the Fair Housing Act, due to the close nexus between LEP and national origin/race, any restrictions on access to housing based on LEP are likely to disproportionately burden certain protected classes. Using LEP selectively based on a protected class or as a pretext for discrimination is prohibited by law. Requiring US citizenship or immigration status violates the Act when it has a purpose or unjustified effect of discrimination on the basis of national origin. Policies and practices, intentional or unintentional, which allow disparate treatment of LEP persons, may be subject to review, investigation, or question. A person’s immigration status does not affect his or her federal, state or local fair housing rights or responsibilities.

What is considered a violation?

Unjustified business policies or practices resulting in a discriminatory effect on protected classes in relation to LEP may result in a violation of the Act. The following are some examples of suspect practices:

- Blanket statements such as, “all tenants must speak English”, or bans on speaking non-English languages;
- Turning away applicants who are not fluent in English;
- Unequal treatment towards one national origin over another (ex: accepting applications from those who speak French, denying those who speak Spanish);
- Treating someone differently because they speak English with an accent; and
- Selectively requiring immigration status or English proficiency as a condition to signing a lease.

A housing provider violates the Act if the provider uses a person’s LEP to discriminate because of race, national origin, or another protected characteristic. Additionally, *targeting* individuals for unfair or illegal housing-related services who are LEP or speak a particular language may also constitute intentional discrimination. This is akin to “reverse redlining”, where a service provider or insurer targets a group of persons or a residential area based on race or national origin, for the extension of credit or insurance on unfair or illegal terms.

Suggested Considerations

Proactively engaging with tenants regardless of language spoken can be achieved through various accommodations:

- Allowing a tenant (home-buyer, mortgage-borrower, etc.) a reasonable amount of time to take a document, such as a lease, to be translated;
- Maintaining a working relationship with translation services for written and oral communications;
- Drawing upon the language skills of staff members or resources such as translation apps; and
- Allowing LEP persons to have family members, including children, interpret as needed.

Resources online: www.fhcwm.org/publications

Office of the General Counsel Guidance on Fair Housing Act Protections for Persons with Limited English Proficiency

The Fair Housing Center acknowledges that this may be a complex area for housing providers; therefore, please feel free to contact us with any questions.

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/ Please note that this fact sheet is not intended to be used as legal advice. /