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April 21, 2020

Office of Governor Ron DeSantis
State of Florida
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

Via Email Only

Dear Governor DeSantis:

You are receiving this letter because the majority of state agencies that you oversee are recipients of federal financial assistance, administering federally funded programs and/or activities that provide essential benefits and/or services to Florida communities. We, the undersigned, are concerned that during this time of urgency and distress caused by the COVID-19 pandemic, these state agencies

The COVID-19 pandemic is ravaging the State of Florida, inflicting unspeakable and unprecedented harm to its residents. While COVID-19 does not discriminate in its path of illness and death, we are witnessing communities of color, and linguistically-isolated communities in particular, suffering disproportionately from its harmful effects and consequences. Statistics from the U.S. Census Bureau's 5-year estimates from the 2014-2018 American Community Survey (ACS) show that almost 20.5 percent of Floridians are foreign born; 29.1 percent speak a language other than English at home, with Spanish (20%) and Haitian Creole (2%) the most prevalent; and 43 percent² of Spanish speakers are LEP (speak English less than very well). Given the significant percentage of LEP Floridians, it is

persons” (emphasis added). *Exec. Ord. 13166* at 1. In short, “Title VI’s plain text and agency regulations clarify that discrimination based on race, color, or national origin (including limited English proficiency) is prohibited.” See *Guidance to State and Local Governments and Other Federally Assisted Recipients Engaged in Emergency Preparedness, Response, Mitigation, and Recovery Activities on Compliance with Title VI of the Civil Rights Act of 1964*, at 3.³

There is not a more important time for recipients of federal financial assistance to comply with the anti-discrimination requirements of Title VI, and to ensure meaningful and equitable access to vital emergency information and federally-funded aid, programs, services, and benefits, than during a time of crisis. After the tragedies of Hurricanes Katrina and Rita, a consortium of federal agencies, including the Departments of Homeland Security (DHS), Justice (DOJ), Transportation (DOT), and Housing and Urban Development (HUD),

during times of crisis, “[t]he prohibition against discrimination on the basis of race, color, and national origin can never be waived.” *Id.* at 6.

The Joint Guidance acknowledges that during public emergencies, there are certain federally-funded activities, services, and programs where compliance with the language access requirements of Title VI must take precedence: “[r]ecipients of federal financial assistance engaged in emergency management activities, as well as recipients that provide emergency-related services, such as health providers, and law enforcement agencies, must comply with Title VI at all times”. *Id.* at 3.

Because the access to information related to emergency orders, aid, services, programs, and assistance is essential and vital during a public emergency, recipients of federal assistance also have an affirmative duty to keep LEP communities well informed: “Title VI requires recipients to ensure that LEP persons have meaningful access to vital information, programs or activities, benefits, services. To *avoid violations of federal law*, recipients must ensure that their actions do not exclude individuals because of their race, color, or national origin, *including limited English proficiency*” (emphasis added). *Id.*

As LEP Floridians can attest, compliance with Title VI’s language access requirements is even more important during the COVG recipients of

With COVID-19 outbreaks reported throughout the state, in North, Central, and South Florida, it is important for those providing emergency aid, services, and assistance to partner with their local communities to assess the community's particular language access needs, and fulfill their legal obligations under Title VI. It is important for state agencies to recognize that language access needs may vary depending on the region, and for recipients at state, county, and local levels to consult with local community organizations to identify areas of need.

The statewide need for language assistance during this pandemic is great. For example, there is a need for translation of vital information (including those displayed on websites) on a statewide, county, and local level; a need to staff hotlines or telephonic assistance with interpreters in languages other than English; and to conduct language-based outreach to rural communities that are primarily comprised of LEP individuals. We have included a few discrete examples of areas of non-compliance:

Florida Department of Health: The DOH has a statewide website containing essential, life-saving information for the public. While the website contains information in languages other than English, it is practically impossible for LEP individuals seeking to access this crucial information in their native language to find the information, because the links to translations are placed at the very bottom of the English-language page. Further, assuming that non-English speakers understand how to find a translation icon on any website is unrealistic, especially with the high rate of lower literacy and low technology literacy of many hard to serve LEP immigrant community members.

County Health Departments: County Health Departments' after-hours COVID-19 Help Lines should render assistance to LEP callers in their language. For example, in

(in a language they understand) to vital emergency information, aid, services, and programs during this pandemic, as they keep Florida's economy moving forward. Yet, anecdotal information indicates that recipients are far from compliant with Title VI's language access mandate pertaining to these LEP communities, failing to provide them with vital emergency information, aid, and services in languages other than English. As Surgeon General Jerome Adams recently noted, only one in five African Americans and one in six Hispanics has a job that lets them work from home.⁴ State, county, and local officials must do better to comply with Title VI's language access requirements, as the well-being of these essential workers depends on it.

The above are just a few examples of the areas where state, county, and local recipients of federal assistance are failing to meet their language access obligations and responsibilities. Title VI clearly requires that these entities meet their anti-discrimination obligations to ensure that Florida's LEP communities have meaningful access to vital emergency information, aid, services, and programs, as delineated in the Joint Guidance.

Request for Compliance

One of the principal objectives of this letter is to engage recipients at the state, county, and local levels in a dialogue that can help them identify areas of Title VI non-compliance and need, so that these are immediately addressed.

Specifically, we request the following:

- That you fully comply with the language access requirements of Title VI and its implementing regulations and ensure that Floridians who are LEP have meaningful

access to the vital emergency

- Any pre-recorded phone message, or any answering service (either live or recorded) providing COVID-19 testing or information related to testing services must be provided in Spanish and other languages predominant in the service area.
- COVID-19 related press conferences or public statements must have simultaneous interpretation in Spanish and other languages predominant in the service area, either with live interpreter or closed captioning.
- Public COVID-19 testing sites must have signage and service in Spanish and other languages predominant in the service area.
- Public announcements need to be provided in Spanish (or closed-captioned) and in other languages predominant in the service area.
- Any messages in reference to the role of law enforcement actions to assure emergency measures must be translated or interpreted into Spanish and other languages predominant in the service area.

Conclusion

The federal government recognizes the importance of compliance with federal anti-discrimination laws in general, and during times of emergency in particular. Recipients of federal assistance – which include most state, county, and local governments – *must* comply with their Title VI obligations to disseminate vital emergency information and administer federally-assisted aid, programs, and services to LEP communities; the fact that Florida is in a state of emergency heightens this responsibility. Recipients are obligated to ensure that LEP communities have meaningful access to vital emergency information, aid, services, and programs, at all times, including during emergencies.

Putnam County Farmworker Career Development
WeCount!
Florida People's Advocacy Center
Coalition of Immokalee Workers (CIW)
Alliance for Fair Food (AFF)
Farmworker Association of Florida
Organize Florida
Community Justice Project
Emmanuel Mennonite Church
The Black Collective
National Farm Worker Ministry
Trinity Metropolitan Community Church of Gainesville