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2D SESSION

S. 4512

To establish requirements for Federal agencies to ensure that individuals with limited English proficiency and people with disabilities can access the services, activities, programs, and benefits of those agencies.

IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2020

Mr. MENENDEZ (for himself, Mr. CASEY, Mr. BROWN, Ms. HIRONO, Ms. WARREN, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish requirements for Federal agencies to ensure that individuals with limited English proficiency and people with disabilities can access the services, activities, programs, and benefits of those agencies.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equal Access to Infor-
5 mation Act of 2020”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) AGENCY.—The term “agency” means an
2 Executive agency, as defined under section 105 of
3 title 5, United States Code.

4 (2) EMERGENCY.—The term “emergency”
5 means—

6 (A) an emergency or major disaster de-
7 clared by the President under the Robert T.
8 Stafford Disaster Relief and Emergency Assist-
9 ance Act (42 U.S.C. 5121 et seq.);

10 (B) a national emergency declared by the
11 President under the National Emergencies Act
12 (50 U.S.C. 1601 et seq.);

13 (C) a public health emergency declared by
14 the Secretary of Health and Human Services
15 under section 319 of the Public Health Service
16 Act (42 U.S.C. 247d);

17 (D) a fishery disaster declared by the Sec-
18 retary of Commerce;

19 (E) a disaster declared by the Adminis-
20 trator of the Small Business Administration;

21 (F) a disaster declared by the Secretary of
22 Agriculture; and

23 (G) the provision of fire management as-
24 sistance grants under section 420 of the Robert

1 T. Stafford Disaster Relief and Emergency As-
2 sistance Act (42 U.S.C. 5187).

3 (3) DISABILITY.—The term “disability” has the
4 meaning given that term in section 3 of the Ameri-
5 cans with Disabilities Act of 1990 (42 U.S.C.
6 12102).

7 (4) INDIVIDUAL WITH LIMITED ENGLISH PRO-
8 FICIENCY.—The term “individual with limited
9 English proficiency” means an individual whose pri-
10 mary language for communication is not English
11 and who has a limited ability to read, write, speak,
12 or understand English.

13 (5) LANGUAGE ACCESS.—The term “language
14 access” means the provision of culturally competent
15 and effective language services to an individual with
16 limited English proficiency or an individual with dis-
17 abilities designed to enhance that individual’s access
18 to, understanding of, or benefit from the services,
19 activities, programs, or benefits provided by the
20 agency.

21 **SEC. 3. LANGUAGE ACCESS WORKING GROUP.**

22 (a) DEMOGRAPHIC ASSESSMENT.—Not later than 30
23 days after the date of enactment of this Act and every
24 3 years thereafter, the head of each Federal agency shall
25 conduct a demographic assessment of individuals with lim-

1 ited English proficiency and individuals with disabilities
2 who are eligible to be served or likely to be encountered
3 by that agency.

4 (b) WORKING GROUP ESTABLISHED.—Not later than
5 30 days after the conclusion of the demographic assess-
6 ment under subsection (a), and in order to ensure that
7 Federal agencies do not discriminate on the basis of na-
8 tional origin in violation of title VI of the Civil Rights Act
9 of 1964 (42 U.S.C. 2000d et seq.) and that such agencies
10 do not discriminate against individuals with disabilities in
11 violation of section 504 of the Rehabilitation Act of 1973
12 (29 U.S.C. 794), the head of each Federal agency shall
13 establish within the agency a Language Access Working
14 Group, which shall include the following members:

15 (1) One or more senior officials within the
16 agency division or directorate.

17 (2) When possible, 1 or more representatives
18 from each employee resource group.

19 (3) The Chief Human Capital Officer or their
20 appointee.

21 (4) Such experts as necessary to develop com-
22 munications for individuals with limited English pro-
23 ficiency and individuals with disabilities who are eli-
24 gible to be served or likely to be encountered by that
25 agency as identified by the demographic assessment

1 under subsection (a), including technical and content
2 experts in communication disabilities, and cross-cultural
3 translations and interpretation services.

4 (5) A website accessibility expert.

5 (6) Internal communications personnel.

6 (c) DUTIES OF THE WORKING GROUP.—Each Language Access Working Group shall—

8 (1) examine the services, activities, programs,
9 and benefits provided by the agency and assist the
10 agency in developing and implementing a system by
11 which individuals with limited English proficiency
12 and individuals with disabilities can access those
13 services, activities, programs, and benefits in a manner
14 that is consistent with the fundamental mission
15 of that agency;

16 (2) examine the services, activities, programs,
17 and benefits provided by any recipients of Federal financial
18 assistance provided by such agency (referred
19 to in this Act as “recipients”) to provide recommendations
20 about how the agency can ensure that
21 recipients of Federal financial assistance provide
22 meaningful access to applicants, beneficiaries, and
23 other individuals served by that recipient who are individuals
24 with limited English proficiency or individuals
25 with disabilities in a manner that is consistent

1 with the fundamental mission of that agency without
2 unduly burdening the essential functions of that re-
3 cipient;

4 (3) conduct an annual vitality assessment to de-
5 termine, over time and across various activities,
6 which of the documents produced by that agency are
7 vital to provide equal access for individuals with lim-
8 ited English proficiency and individuals with disabil-
9 ities served by the agency;

10 (4) provide recommendations about how the
11 agency can ensure that information made available
12 by the agency or by a recipient to individuals af-
13 fected by an emergency is made available as soon as
14 possible in multimodal and cross-cultural formats
15 that can be understood by individuals with limited
16 English proficiency and individuals with disabilities;

17 (5) provide recommendations about how the
18 agency can ensure that the distribution of supplies,
19 the processing of applications, and other relief and
20 assistance activities provided by such agency or re-
21 cipient during or in response to an emergency shall
22 be accomplished in an equitable and impartial man-
23 ner, without discrimination on the grounds of na-
24 tionality, disability, or English proficiency; and

25 (6) assist the head of the agency in—

1 (A) preparing, annually updating, submit-
 2 ting to the Attorney General, and implementing
 3 the plan described in section 4(a);

4 (B) issuing the guidance described in sec-
 5 tion 4(d); and

6 (C) ensuring the agency plan and agency
 7 recipient guidance is made available to the pub-
 8 lic online in a manner that complies with sec-
 9 tion 508 of the Rehabilitation Act of 1973 (29
 10 U.S.C. 794d).

11 **SEC. 4. ACCESS PLAN FOR FEDERALLY CONDUCTED PRO-**
 12 **GRAMS AND ACTIVITIES.**

13 (a) IN GENERAL.—Not later than 1 year after the
 14 date of enactment of this Act, the head of each agency
 15 shall prepare and submit to the Attorney General a plan
 16 described in subsection (b). Each agency shall ensure that
 17 such plan is consistent with the final guidance of the De-
 18 partment of Justice entitled “Guidance to Federal Finan-
 19 cial Assistance Recipients Regarding Title VI Prohibition
 20 Against National Origin Discrimination Affecting Limited
 21 English Proficient Persons” (67 Fed. Reg. 41455 (June
 22 12, 2002)), the Americans with Disabilities Act of 1990
 23 (42 U.S.C. 12102), section 504 of the Rehabilitation Act
 24 of 1973 (29 U.S.C. 794), and section 1557 of the Patient
 25 Protection and Affordable Care Act (42 U.S.C. 18116).

1 (b) PLAN REQUIREMENT.—Each plan under sub-
2 section (a) shall include—

3 (1) the steps the agency will take to ensure that
4 individuals with limited English proficiency or indi-
5 viduals with disabilities have access to each service,
6 activity, program, or benefit provided or adminis-
7 tered by the agency;

8 (2) the steps the agency will take to ensure that
9 older adults with limited English proficiency or a
10 disability who may require the use of non-traditional
11 modes of communication have access to each service,
12 activity, program, or benefit provided or adminis-
13 tered by the agency;

14 (3) the policies and procedures for identifying,
15 assessing, and meeting the culturally and linguis-
16 tically appropriate language needs of the agency's
17 beneficiaries who are individuals with limited
18 English proficiency or individuals with disabilities
19 served by the agency;

20 (4) the steps the agency will take to ensure that
21 each service, activity, program, or benefit of the
22 agency is culturally and linguistically appropriate,
23 including providing a range of language assistance
24 options, notice to individuals with limited English
25 proficiency or individuals with disabilities of the

1 right to qualified language services and communica-
2 tion access, periodic training of staff, monitoring
3 and quality assessment of the language services and,
4 in appropriate circumstances, the translation of writ-
5 ten materials;

6 (5) the steps the agency will take, with respect
7 to each service, activity, program, or benefit of the
8 agency, to provide reasonable accommodations nec-
9 essary for individuals with limited English pro-
10 ficiency and communication disabilities to under-
11 stand communications from the agency;

12 (6) the steps the agency will take to ensure that
13 all applications, forms, and other relevant documents
14 for the agency's services, activities, benefits, and
15 programs are competently translated, interpreted,
16 and provided in accessible formats in the primary
17 language of a client that is an individual with lim-
18 ited English proficiency or an individual with disabil-
19 ities if such materials are needed to improve access
20 of such client to such service, activity, benefit, or
21 program;

22 (7) when providing media, live broadcasting, or
23 additional video communication for the agency's
24 services, activities, benefits, and programs, how the
25 agency will ensure the use of qualified American

1 Sign Language interpreters with a picture-in-picture
2 inset feature where the interpreter's frame is at
3 least the same size as the main speaker's frame but
4 no smaller than 33 percent of the screen;

5 (8) if relevant to the agency, the resources the
6 agency will provide to improve cultural and linguistic
7 appropriateness and accessibility practices to assist
8 recipients of Federal funds to improve their access
9 to health care related programs and activities for in-
10 dividuals with limited English proficiency or individ-
11 uals with disabilities;

12 (9) if relevant to the agency, the resources the
13 agency will provide to ensure that accessible infor-
14 mation and competent communication assistance is
15 provided to patients that are individuals with limited
16 English proficiency or people with disabilities by
17 qualified interpreters; and

18 (10) the resources the agency will provide to en-
19 sure that minor children are not used to provide in-
20 terpretation services, except as permitted under reg-
21 ulations implementing section 1557 of the Patient
22 Protection and Affordable Care Act (42 U.S.C.
23 18116) as published in the Federal Register on May
24 18, 2016.

1 (c) DOJ REVIEW.—The Attorney General shall re-
2 view each plan submitted in accordance with this section
3 not later than 120 days after receipt of the plan. The At-
4 torney General shall also review the most recently sub-
5 mitted plan from each relevant agency not later than 7
6 days after an emergency has been declared.

7 (d) GUIDANCE FOR RECIPIENTS OF FEDERAL FI-
8 NANCIAL ASSISTANCE.—

9 (1) IN GENERAL.—The agency shall issue guid-
10 ance for recipients of Federal financial assistance
11 under the jurisdiction of the agency in order to as-
12 sist such recipients in ensuring that individuals with
13 limited English proficiency or individuals with dis-
14 abilities have access to each service, activity, pro-
15 gram, or benefit provided or administered by the re-
16 cipient. Such guidance shall take into account the
17 types of services provided by the recipients and the
18 individuals served by the recipients.

19 (2) REVIEW AND APPROVAL.—The agency shall
20 submit such guidance for review and approval by the
21 Attorney General. Following approval by the Attor-
22 ney General, each agency shall publish its guidance
23 document in the Federal Register for public com-
24 ment.

1 **SEC. 5. CONSULTATION.**

2 (a) **STAKEHOLDER INPUT.**—In carrying out this Act,
3 agencies shall ensure that stakeholders, such as individ-
4 uals with limited English proficiency, people with disabil-
5 ities, and their representative organizations, recipients,
6 and other appropriate individuals or entities, have an ade-
7 quate opportunity to provide meaningful input.

8 (b) **EVALUATION OF AGENCY CIRCUMSTANCES.**—
9 Each agency shall evaluate the particular needs of the in-
10 dividuals with limited English proficiency and people with
11 disabilities that the agency and the recipients of the agen-
12 cy serve and the burdens of compliance on the agency and
13 its recipients.

14 (c) **INPUT.**—Each agency shall take into account
15 such input from stakeholders in developing an approach
16 to ensuring meaningful access by individuals with limited
17 English proficiency and people with disabilities that is
18 practical and effective, fiscally responsible, responsive to
19 the particular circumstances of each agency, and can be
20 readily implemented.

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