

# Clearinghouse REVIEW

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# SEEN But Often UNHEARD

## Limited-English-Proficiency Advocacy in Georgia

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Georgia is the largest state east of the Mississippi River with 159 counties, but 35 percent of its population is centered in the 5 major counties in metropolitan Atlanta. Most of the state is rural. Georgia's nonunified court system has more than 600 trial courts, with elected judges and clerks. More than 160 welfare offices and 50 Georgia Department of Labor offices are in the state. During economic boom times in the past twenty years, Georgia drew waves of immigration. People arrived in the state for jobs during the preparations for the 1996 Olympics as well as for jobs in the carpet, poultry, and agriculture industries.

In the same year that Atlanta welcomed the world for the Olympics, Georgia passed an English-only statute. The final version designates English as the official language for official public records, meetings, and official acts of the state. Advocates were able to insert that the code section "shall not apply ... when in conflict with federal law ... or justice requires the use of other languages."<sup>1</sup> Despite this provision, some welfare caseworkers and others relied on this 1996 statute for years to say that state agencies do not have to provide any services in languages other than English.

Georgia passed other major antiimmigrant legislation in 2007 with Senate Bill 529 and in 2011 with House Bill 87.<sup>2</sup> A number of provisions in each statute have led to discrimination and fear in immigrant communities. Portions of the latter statute are enjoined while a challenge is pending before the Eleventh Circuit Court of Appeals, and immigrants brace for its decision in the wake of *Arizona v. United States*.<sup>3</sup>

The Legal Services Corporation-funded Georgia Legal Services Program works throughout Georgia, except for the five counties that constitute the metropolitan Atlanta area.<sup>4</sup> In the 154 counties where the Georgia Legal Services Program works, the largest limited-English-proficient population speaks Spanish. Initially we saw concentrations of Spanish speakers in north Georgia. We quickly found out that the most significant obstacle that these limited-English-proficient persons faced was that they could not communicate with many people in the state. We had to learn how we could

<sup>1</sup>English Designated as Official Language, GA. CODE. ANN. § 50-3-100 (2012); see also Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455, 41459 (June 18, 2002), <http://1.usa.gov/OWNCSC>.

<sup>2</sup>Georgia Security and Immigration Compliance Act, 2007 Ga. Laws 105, <http://1.usa.gov/PWH280> (Senate Bill 529); Georgia Illegal Immigration Reform and Enforcement Act, 2011 Ga. Laws 794, <http://1.usa.gov/PaCONg> (House Bill 87).

<sup>3</sup>*Georgia Latino Alliance for Human Rights v. Deal*, 793 F. Supp. 2d 1317 (N.D. Ga. 2011), appeal docketed, No. 11-13044 (11th Cir. 2011); *Arizona v. United States*, 132 S. Ct. 2492 (2012).

<sup>4</sup>Georgia Legal Services Program is a nonprofit law firm whose mission is to provide access to justice and opportunities out of poverty for low-income Georgians (see Georgia Legal Services Program, [www.glsp.org](http://www.glsp.org)).

communicate with Spanish speakers and then develop strategies to surmount the language barriers within Georgia Legal Services Program and in the communities we serve. With so much territory and hundreds of possible public points of contact for limited-English-proficient persons, we focused on the courts and agencies that our limited-English-proficient clients frequented.

### Access to the Courts

Early on we knew that we would not be able to rely exclusively on federal precedent. Although we had Title VI of the Civil Rights Act of 1964 and Executive Order 13166, some local decision makers reject federal law.<sup>5</sup> Our Title VI arguments also faced a setback in 2001 with the U.S. Supreme Court's decision in *Alexander v. Sandoval* upholding Alabama's requirement that driver's license tests be given only in English consistent with the 1990 English-only amendment to the Alabama Constitution.<sup>6</sup> Although the Court held that regulations enacted under Title VI did not provide a private right of action based on discrimination claims of disparate impact, some read the case as limiting enforcement of Title VI itself.

We are thankful that Georgia has two statutes creating rights to free interpreters. In civil domestic violence cases, limited-English-proficient litigants and witnesses have a statutory right to free court-appointed foreign language or sign language interpreters.<sup>7</sup> The statute mandates that the court-appointed interpreter be compensated out of the local victims' assistance funds.<sup>8</sup> Hearing-impaired litigants

and witnesses have a statutory right to an interpreter in all types of cases.<sup>9</sup>

**Support Within the Legal Establishment.** Georgia Legal Services Program was fortunate that the leadership of the Georgia Supreme Court, including several of the chief justices, was eager to improve court access for limited-English-proficient litigants. Relying on its inherent power and the Georgia Constitution, the court adopted, in October 2001, a set of rules entitled "Use of Interpreters for Non-English Speaking Persons in Georgia." Then the court amended the rules in January 2003 with the establishment of the Georgia Commission on Interpreters.<sup>10</sup> As a member of the commission chaired by the chief justice of the Georgia Supreme Court, a Georgia Legal Services Program attorney participated in the discussion, among other commission activities, of how to use certified interpreters, a category created in the 2003 amendments. The Georgia Supreme Court's rules on the use of interpreters were an excellent first step toward language access in the courts, but few members of the judiciary recognized the section on civil cases. Also, only persons who were approved for pauper's affidavits were allowed to have a free interpreter.

The U.S. Department of Justice led by issuing, in 2002, guidance to state courts and other recipients of Justice Department funds that they must provide free and competent interpreters in all civil and criminal cases.<sup>11</sup> Eighteen months later the Justice Department sent a copy of the guidance to the chief administrator in each state court.<sup>12</sup> Assistant Attorney

<sup>5</sup>Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d; Executive Order No. 13,166, 65 Fed. Reg. 50121 (Aug. 16, 2000).

<sup>6</sup>*Alexander v. Sandoval*, 532 U.S. 275 (2001).

<sup>7</sup>Fees, GA. CODE ANN. § 15-6-77(e)(4) (2012).

<sup>8</sup>*Id.*

<sup>9</sup>Appointment of Interpreters for Hearing Impaired Persons Interested In or Witness at Agency Proceedings, GA. CODE ANN. § 24-9-102 (2012); Indigent Hearing Impaired Defendants to Be Provided with Interpreters, *id.* § 24-9-104.

<sup>10</sup>Georgia Supreme Court, Use of Interpreters for Non-English-Speaking Persons (Including Amendments Through May 13, 2011), <http://bit.ly/ODoHjC>; see also Georgia Commission on Interpreters, Our Mission (n.d.), <http://bit.ly/SpDgrK>.

<sup>11</sup>Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455, 41471-72 (June 18, 2002), <http://1.usa.gov/OWNc3C>.

<sup>12</sup>Letter from Loretta King, Deputy Assistant Attorney General, to Director of State Court and/or State Court Administrator (Dec. 1, 2003), <http://1.usa.gov/Pg6Jzb>.

General Thomas E. Perez's August 2010 letter to chief justices and state court administrators helped provide more federal support.<sup>13</sup> The 2012 Justice Department letter to the North Carolina Administrative Office of the Courts is also useful in part because it strongly says that lack of money is not a defense to failing to provide interpreters.<sup>14</sup>

In 2010 the Georgia Supreme Court held that an interpreter must be appointed for those who could not communicate in English in criminal cases.<sup>15</sup> The court also advised that, to comply with federal law, meaningful access to justice must be provided in all Georgia courts, including civil courts, for limited-English-proficient persons. While the proposed American Bar Association Standards for Language Access in Courts were being considered, the Georgia Supreme Court amended its rules on the use of interpreters in May 2011 explicitly to cover civil proceedings in all stages.<sup>16</sup> The adoption of the American Bar Association Standards will help state courts in designing, implementing, and enforcing a comprehensive system of language access services suited to the needs of the communities they serve.

Following the August 2010 Justice Department letter to state chief justices and chief court administrators, Georgia looked for ways to comply with providing interpreters in all phases of civil and criminal cases. The Georgia Administrative Office of the Courts plans to test in two courts outside Atlanta a remote interpreter program that will use video, Internet, and wireless technology to provide certified interpreters for courts without access to in-person interpreters. The goal is to provide access to interpreters who speak languages not now available in most areas. The Administrative

Office of the Courts plans to collect data on the costs and whether the program saves money.<sup>17</sup>

**Educating Judges, Advocates, and the Community.** From our vantage points throughout the state, we saw that the Georgia Supreme Court's rules on the use of interpreters were not consistently applied, especially in civil cases. The 2001 rule provided that persons who filed pauper's affidavits should receive free interpreters in court. Because our clients were poor, for years they received court-provided interpreters based on our standard motions and briefs, but *pro se* litigants were not advised of this process.

The primary focus of our advocacy plan has been educating judges and clerks about the need for qualified interpreters to assure meaningful access to our justice system. We developed standard motions and briefs in support of the appointment of interpreters that we filed with paupers' affidavits. The early documents cited Title VI; we added Justice Department guidances, the 2010 Georgia Supreme Court decision, and the current Georgia Supreme Court rules on the use of interpreters. Because most of our state-court cases for limited-English-proficient persons are domestic violence cases, we cite the state statute. We developed standard motions for administrative hearings citing Title VI and the relevant program law and regulations. We share our motions with Georgia Legal Services Program volunteer attorneys and post them on our website so that they are accessible to volunteers. We identified qualified interpreters and let clerks know their names and contact information. We also have met with other Georgia advocates for poor people to see where we could work together.

<sup>13</sup>Letter from Thomas E. Perez, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, to Chief Justice/State Court Administrator (Aug. 16, 2010), <http://1.usa.gov/Oazjpm>.

<sup>14</sup>Letter and Report of Findings from Thomas E. Perez, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, to John W. Smith, Director, North Carolina Administrative Office of the Courts 2 (March 8, 2012), <http://1.usa.gov/PomOnn>.

<sup>15</sup>*Ling v. State*, 702 S.E. 2d 881 (2010).

<sup>16</sup>AMERICAN BAR ASSOCIATION, ABA STANDARDS FOR LANGUAGE ACCESS IN COURTS (Feb. 2012) <http://bit.ly/Pbrvkf>.

<sup>17</sup>Kathleen Baydala Joyner, *Ga. Tests Video for Remote Interpreters in Rural Courtrooms*, LAW TECHNOLOGY NEWS (May 4, 2012).

Some courts responded to the need and developed good systems to provide qualified interpreters. Most courts seemed, from our experience with judges and clerks, to want to do the right thing but they did not know how to do it. But even in domestic violence cases, some courts resisted providing free interpreters because of the cost. Before the Georgia Supreme Court's rules on the use of interpreters were amended in 2011, when we discussed language access in civil cases with courts that did not provide language access, we pointed to the requirement in Title VI. Some courts said that they were aware of Title VI but that, since their courts did not receive federal funds, they did not have to comply with it. Some courts had difficulty tracing whether they received federal funding. Now advocates can use a federal website to find recipients of federal funding.<sup>18</sup>

In one Georgia court, the chief judge entered a standing order requiring parties seeking a court-appointed interpreter to give notice to the county finance director. The county contends that, despite its growth and affluence, it does not have money for interpreters. When judges found that parties or witnesses needed an interpreter, the county paid for the interpreter on our motion to be reimbursed. To the county's attorneys we suggested that the county seek technical assistance from the Justice Department. We are looking at other options, such as a Justice Department complaint. We are working with another county court to develop a comprehensive language access plan and are reaching out to other courts. We recently submitted to the state bar journal an article focusing on representation of limited-English-proficient clients and discussing the ethical obligations of Georgia attorneys to communicate with their clients.

In many ways we at Georgia Legal Services Program educate limited-English-proficient people about their right to have meaningful access to public serv-

es. We have a business-card-sized bilingual "I speak limited English" card that we distribute to Latino limited-English-proficient clients. It states that the individual presenting the card speaks limited English and needs competent language assistance in Spanish to have full access to the federally funded entity's programs, pursuant to Title VI. We encourage clients to use the cards when they are trying to access the court system or obtain public benefits and need an interpreter. Spanish-speaking callers are directed to our Spanish Intake Program. This ensures that Spanish-speaking callers can communicate with our employees when they contact Georgia Legal Services Program for the first time.

Georgia Legal Services Program's six bilingual attorneys also conduct community education sessions on issues relevant to the Latino community—domestic violence, public benefits, birth certificate corrections, Georgia's antiimmigration legislation, child support, legitimation, education rights, consumer rights, and access to federally subsidized housing.

For Georgia attorneys, we created a continuing legal education webinar that explores working with an interpreter to provide representation of limited-English-proficient clients.<sup>19</sup> The webinar discusses such topics as the definition of limited-English proficiency, sources of law, the interpreter's role, using an interpreter and the effect on attorney-client privilege, and practical tips for working with an interpreter.

### Access to Public Benefits

Our advocates recognize that limited-English-proficient persons in Georgia consistently receive disparate treatment when applying for public benefits or trying to maintain those benefits when seeking recertification. The Georgia Department of Human Services' Division of Family and Children Services administers the Supplemental Nutrition

<sup>18</sup>Limited English Proficiency (LEP), A Federal Interagency Website, Recipients of Federal Financial Assistance (July 11, 2012), <http://1.usa.gov/PRzRxv>.

<sup>19</sup>Georgia Legal Services Program, Working with Interpreters: An Effective Method for Providing Limited English Proficiency (LEP) Advocacy (March 19, 2012), <http://bit.ly/UyyloL>.

Assistance Program (SNAP) and Medicaid.<sup>20</sup> We see limited-English-proficient individuals whose applications for new benefits were denied or benefits reduced or terminated for reasons related to their English proficiency. The Department of Human Services' actions show that having an internal written limited-English-proficient policy and procedure does not guarantee limited-English-proficient persons meaningful access to public benefits.<sup>21</sup> In violation of federal regulations and the department's own limited-English-proficiency policy and procedure, the denial, reduction, or termination of benefits routinely occurs across Georgia for the following reasons:

- Required forms are often not in Spanish (e.g., denial, termination, or recertification letters).<sup>22</sup>
- The Division of Family and Children Services does not hire bilingual staff, provide interpreters, or use telephone language lines or other methods of interpretation for adequate in-person and telephone communication between limited-English-proficient persons and their caseworkers.<sup>23</sup>
- Limited-English-proficient individuals are frequently not informed of their right to free interpreter services.<sup>24</sup>
- In its offices the Division of Family and Children Services often does not have adequate signage on information critical to limited-English-proficient client services.<sup>25</sup>
- In violation of federal regulations, national-origin barriers imposed on

SNAP applicants have had a disproportionate impact on such applicants.<sup>26</sup>

- Limited-English-proficient persons are often not provided with timely, accurate, and fair service due to language-barrier delays.<sup>27</sup>

Many of our clients receive some notices in Spanish and others in English. Others do not receive any notices in Spanish, notwithstanding that the Division of Family and Children Services is aware of their limited-English-proficiency status. Georgia Legal Services Program conducted a brief poll of twenty Spanish speakers in nine Division of Family and Children Services offices across Georgia in 2010 and found that 55 percent received notices in English or a combination of both English and Spanish.<sup>28</sup> The forms where most problems are encountered are recertification notices or notices of denial or termination—all vital documents. Certain Spanish-language forms have handwritten English-language instructions by Division of Family and Children Services employees, or the main form is in Spanish, but required supplemental forms, such as employment and contribution verification forms, are only in English. Limited-English-proficient clients are often discouraged from requesting a fair hearing to appeal the adverse decision. Many of our limited-English-proficient clients report that Division of Family and Children Services caseworkers have called them after receiving a fair hearing request to tell them that by requesting a fair hearing they are “suing the State of Georgia” and that the Division of Family and Children Services “did not make a mistake.”

<sup>20</sup>Georgia's Division of Family and Children Services also takes up adoption and foster care issues. The division has departments in each Georgia county.

<sup>21</sup>Georgia Department of Human Services, Language Access (n.d), <http://1.usa.gov/NQX84F>.

<sup>22</sup>7 C.F.R. § 272.4(b) (2012).

<sup>23</sup>*Id.* § 272.4(b)(6).

<sup>24</sup>Guidance to Federal Financial Assistance Recipients, 67 Fed. Reg. at 41463.

<sup>25</sup>7 C.F.R. §§ 272.6(f) (2012), 272.4(b).

<sup>26</sup>*Id.* § 272.6(a).

<sup>27</sup>Food and Nutrition Act of 2008, 7 U.S.C. § 2020(e)(2)(B)(i).

<sup>28</sup>Georgia Legal Services Project, November 2010 GLSP Spanish Poll (Nov. 2010) (unpublished) (on file with Jana J. Edmondson and Lisa J. Krisher).

In April 2005 Atlanta Legal Aid Society and Georgia Legal Services Program filed a federal administrative complaint on behalf of their clients with the U.S. Department of Health and Human Services (HHS) Office of Civil Rights.<sup>29</sup> The complaint alleged disparate treatment of limited-English-proficient persons in Georgia on having meaningful access to Medicaid. In January 2011 Georgia Legal Services Program filed a federal administrative complaint with the U.S. Department of Agriculture (USDA) Food and Nutrition Services Office of Civil Rights.<sup>30</sup> The complaint alleged disparate treatment of limited-English-proficient persons in Georgia on having meaningful access to SNAP. Both complaints are pending before their respective federal agencies. The complaints are being considered together in part because Georgia has a common application for SNAP, Medicaid, and Temporary Assistance for Needy Families (TANF).

Since the filing of those complaints, Georgia Legal Services Program has continued to monitor the meaningful access afforded to limited-English-proficiency public-benefits applicants and recipients and to report our findings to HHS and USDA. In March 2011 Georgia Legal Services Program conducted a sixty-day study in which four bilingual interns from Mercer University School of Law phoned twelve Division of Family and Children Services offices across the state during March and April 2011.<sup>31</sup> The interns spoke only Spanish to the division's employees.<sup>32</sup> Calling on fifteen different dates, the interns were not given any script or instructed on what specifically

they should say. They got mixed results. Only 37 of 116 calls ended with an intern speaking to a Spanish speaker; that is, only 32 percent of callers had the opportunity to speak with a Spanish speaker. Many limited-English-proficient clients tell us that the first time they were ever notified of their right to free interpreter services was when they were informed by Georgia Legal Services Program staff.

To educate advocates on these issues, Georgia Legal Services Program developed a continuing legal education webinar entitled "Enforcing Title VI: Ensuring Limited English Proficient (LEP) Individuals Have Meaningful Access to Georgia's Food Stamp Program."<sup>33</sup> The webinar discusses the obligation under Title VI of federally funded entities to take reasonable efforts to provide meaningful access to their benefits and services free of charge.

**TANF.** Although limited-English-proficient applicants have fewer dealings with TANF, language access is an issue. TANF is administered through the Division of Family and Children Services. In two cases we filed motions for certified interpreters. In the first case, at the administrative hearing the division proposed using the caseworker on the case as the interpreter.<sup>34</sup> Our attorney objected, and the division suggested that the parties use a third-party telephonic language service. Our attorney objected in that the quality of the interpretation would be an issue. The administrative law judge continued the hearing and ordered the division to bring a qualified interpreter not involved in the case, preferably one

<sup>29</sup>Complaint, *Hispanic Health Coalition of Georgia v. Georgia Department of Human Resources*, No. TR-07-61724 (U.S. Dep't of Justice Dec. 15, 2006).

<sup>30</sup>Complaint, *Ramos v. Georgia Department of Human Services* (USDA Office of Civil Rights Jan. 7, 2011).

<sup>31</sup>Georgia Legal Services Program, DFCS Calling Report 2011 (Feb.–March 2011) (on file with Edmondson and Krisher). The Division of Family and Children Services offices that the students called were chosen either because they were in counties that had been mentioned in the January 2011 complaint filed by Georgia Legal Services Project with the U.S. Department of Agriculture's Office of Civil Rights or because, since the filing of the complaint, significant situations had arisen out of those counties and signaled the need to include them.

<sup>32</sup>While not scientific, this study was conducted to simulate and document the actual, personal experiences of many of Georgia Legal Services Program's limited-English-proficient clients when they attempt to communicate with offices of the Division of Family and Children Services.

<sup>33</sup>Georgia Legal Services Program, *Enforcing Title VI: Ensuring Limited English Proficient (LEP) Individuals Have Meaningful Access to Georgia's Food Stamp Program* (Oct. 20, 2011), <http://bit.ly/RXITaP>.

<sup>34</sup>Order on Interpreter, No. OSAH-DFCS-FSP-1118737-6-Miller (Ga. Office of State Admin. Hearings Feb. 20, 2011).

certified by the Georgia Commission on Interpreters. The parties settled the case before the next hearing.

In another recent case the Division of Family and Children Services brought two Spanish-speaking caseworkers to the administrative hearing, with one to interpret.<sup>35</sup> Georgia Legal Services Program attorneys objected, but the administrative law judge denied a motion for continuance to provide for a qualified interpreter. The administrative law judge determined that the division complied with Title VI by providing an interpreter, albeit not a trained or impartial one. The administrative law judge opened the hearing by stating there was not enough time for everyone to hear the proceedings in their own language—an example of the disregard for language access for limited-English-proficient individuals and an example of the common misconception that a bilingual is competent to serve as an interpreter. Having a Division of Family and Children Services employee serve as the interpreter, without further inquiry, ignores the issues of competency and impartiality.

**Unemployment Benefits.** In north Georgia we saw language-barrier problems for limited-English-proficient clients at local labor departments. We filed a civil rights complaint on behalf of Spanish-speaking limited-English-proficient persons in April 2005 with the Labor Department.<sup>36</sup> We complained about deficiencies in Georgia's provision of language access services statewide, but primarily in two offices, in areas where one-fourth of the population's first language is Spanish. Following a weeklong in-person investigation, the Office of the Assistant Secretary of Administration and Management, Civil Rights Center, issued its preliminary findings in September 2006.<sup>37</sup>

In response to our complaint, the Georgia Department of Labor improved its

services for limited-English-proficient persons (1) by understanding better its obligations to provide interpreters for unemployment claimants and through a telephone line in Spanish; (2) through a new “tag line” sheet enclosed with every decision and with information in English and fifteen other languages about the importance of the decision and about translation services being available through every local unemployment office; (3) with appeals and eligibility brochures in Spanish on the Georgia Department of Labor's website; and (4) with more bilingual staff. The website could improve further by having on the home page a button or track for non-English speakers.

**Child Support Services.** In December 2008 Georgia Legal Services Project filed with the HHS Office of Civil Rights a complaint alleging race and national-origin discrimination by the Georgia Office of Child Support Services. The Office of Child Support Services was refusing to allow immigrant parents to apply for services for their U.S.-citizen children unless the parents could present a U.S.-issued identification card and a social security card.<sup>38</sup> Valid identification documents from another country were not acceptable, even though the law did not require this restriction on proof of identity. This complaint is still pending resolution by the HHS Office of Civil Rights.

### **Cultural Competency: Birth Certificates and Language Access in Georgia Hospitals**

Latino parents seeking assistance in correcting their child's birth certificate often contact Georgia Legal Services Program. The need for correct birth certificates became more acute with the passage of House Bill 87 in April 2011. As stated by the district court's order on preliminary injunction of sections of

<sup>35</sup>Initial Decision, No. OSAH-DFCS-TANF-1238902-137-Brown (Ga. Office of State Admin. Hearings Aug. 29, 2012) (decision does not address interpreter issue but is only published decision in case).

<sup>36</sup>Complaint by Georgia Legal Services Program Against Georgia Department of Labor (U.S. Dep't of Labor Civ. Rts. Ctr. April 18, 2005) (on file with Georgia Legal Services Program).

<sup>37</sup>The findings in this matter were unpublished.

<sup>38</sup>Complaint by Georgia Legal Services Program Against Georgia Department of Child Support Services, No. TR-09-095758 (HHS Office of Civ. Rts. Dec. 1, 2008) (on file with Georgia Legal Services Program).



the statute, the apparent legislative intent was to “create such a climate of hostility, fear, mistrust and insecurity that all illegal aliens will leave Georgia.”<sup>39</sup> After the passage of House Bill 87, many limited-English-proficient clients told us they were leaving Georgia because they feared members of their family would be deported and their family unit broken up. Many limited-English-proficient parents had been trying to obtain dual citizenship for their children so that the family could return to the parents’ native country.

Giving children two surnames is common in Latino culture. Generally the first surname is the paternal surname of child’s father, and the second surname is the paternal surname of the mother. For example, Juan Lopez Garcia and Maria Torres Gonzalez have a child they name Juan. Juan’s full name would read Juan Lopez Torres with “Lopez Torres” being his last name. For lack of cultural competency regarding Latino naming practices, the second surname is often left off the child’s birth certificate. Or the first surname is frequently listed as the middle name and only the second surname listed as the last name. The same misunderstanding occurs in recording the parents’ information. We often see that if the parents are married, the mother is given the husband’s surname, notwithstanding that the mother has not changed her name per traditional Latino custom.

Georgia has two main avenues for modifying erroneous information on a birth certificate. The nature of the error determines whether the modification may be achieved administratively or in a court of law. Any change in the name of a child who is over a year old requires a court order.<sup>40</sup> Such change may be the removal of a hyphen erroneously placed between the two surnames. Most changes in the

parents’ information may be modified administratively with the requisite documentation (e.g., valid passport or original birth certificate showing the information as it should appear).

We have represented hundreds of children whose birth certificates contain errors that could have been avoided if there had been more awareness of Latino culture and traditional Latino naming practices. Our clients’ parents frequently first find out about errors when they seek dual citizenship for their child and their native country’s government rejects the American birth certificate. For example, the Mexican government does not recognize the American suffixes *Jr.*, *Sr.*, or *III*. Similarly the Mexican government does not recognize hyphens between the two surnames (e.g., Lopez-Torres). Hyphenation is regarded by many Latin American governments as a typographical error.

#### **Language Access in Georgia Hospitals.**

Many of the errors on birth certificates are a result of inadequate language access at the hospital. Our clients often are not provided with competent interpreters and have difficulty communicating with hospital staff. Many of our clients do not have the requisite literacy skills to understand the forms they are required to read and sign. Pursuant to Title VI, and with most Georgia hospitals receiving funds from the Indigent Care Trust Fund, Georgia hospitals are required to provide interpreter services at no cost to their limited-English-proficient patients.<sup>41</sup> The Indigent Care Trust Fund expands Medicaid eligibility and services, supports rural health care facilities that serve the medically indigent, and funds primary health care programs for medically indigent Georgians.<sup>42</sup>

<sup>39</sup>Georgia Latino Alliance for Human Rights, 793 F. Supp. 2d at 1333.

<sup>40</sup>All Other Amendments, GA. COMP. R. & REGS. R. 290-1-3.25(6) (2011); Amendment of Certificates or Reports, GA. CODE ANN. § 31-10-23(d)–(f) (2012).

<sup>41</sup>The Joint Commission on Accreditation of Healthcare Organizations is responsible for enforcing this requirement (see Joint Commission, About the Joint Commission (2012), <http://bit.ly/Pwfd41>).

<sup>42</sup>Indigent Care Trust Fund, GA. CODE ANN. §§ 31-8-150–31-8-160 (2012); see also Georgia Hospital Accountability Project, Language Access at Hospitals (June 2011) (on file with Krisher).

Approximately 145 private and public hospitals participate in Georgia's Indigent Care Trust Fund program.<sup>43</sup> In exchange for receiving that money, participating hospitals must, among other requirements, post signage in languages appropriate for their patient base, particularly the top four of their patients' languages, and supply materials related to financial assistance in relevant languages.<sup>44</sup> However, only a few gave information in varying languages.<sup>45</sup> In a survey of ninety-five websites for Georgia hospitals participating in the Indigent Care Trust Fund program, only about one-sixth had any information on available financial assistance programs in a language other than English.<sup>46</sup> No Georgia hospital website gives information on available assistance programs—or any hospital program—in a language other than English or Spanish.<sup>47</sup>

**Education of Advocates and the Community.** To resolve birth-certificate problems on the front end, Georgia Legal Services Program has collaborated and continues to collaborate with the Georgia Office of Vital Records to train hospital staff and advocates in cultural naming practices and language access. Georgia Legal Services Program's goal is to decrease the number of errors at the hospital and thus to cut down on the number of birth certificates requiring modification. Georgia Legal Services Program's bilingual attorneys are developing new training materials that its

advocates can use to train local hospital staff around the state.

■ ■ ■

House Bill 87 has affected Georgia's immigrant community in terms of how people perceive what legal rights they have. Many are apprehensive about challenging "the authorities." For example, they are apprehensive about challenging the denial of a court-appointed interpreter or the denial or termination of public benefits such as SNAP or Medicaid. Many limited-English-proficient clients do not challenge adverse decisions lest they suffer retribution on account of a family member's status.

But we have made progress on language access. We have been encouraged by the Obama administration's renewed commitment to enforcing Title VI, Executive Order 13166, and similar laws.<sup>48</sup> Thousands of limited-English-proficient people in Georgia have received appropriate language access because of our direct advocacy or broader educational advocacy for clients, other limited-English-proficient people, attorneys, judges, and clerks. We see the future as including a statewide language-access plan for Georgia courts using the American Bar Association Standards where all limited-English-proficient persons receive meaningful access to the courts, and government programs consistently provide meaningful access to services.

<sup>43</sup>Georgia Hospital Accountability Project, *supra* note 42.

<sup>44</sup>*Id.*

<sup>45</sup>*Id.*

<sup>46</sup>*Id.*

<sup>47</sup>*Id.*

<sup>48</sup>Memorandum from Eric Holder, Attorney General, U.S. Department of Justice, to Heads of Federal Agencies, General Counsels, and Civil Rights Heads on the Federal Government's Renewed Commitment to Language Access Obligations Under Executive Order 13166 (Feb. 17, 2011), <http://1.usa.gov/PouLZW>.



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