



IMPERIAL COUNTY WORKFORCE DEVELOPMENT BOARD

2799 S. Fourth Street - El Centro, CA 92243 - Tel: (442) 265-4974 - Fax: (760) 337-5005

POLICY	ORIGINAL DATE	LAST REVISION
Limited English Proficiency	FISCAL YEAR 2012-2013	February 24, 2021

POLICY OVERVIEW:

This policy is to be used by the Imperial County Workforce Development Board (ICWDB), Imperial County Workforce and Economic Development Office (ICWED) and America's Job Center of California (AJCC) staff, and Workforce Innovation and Opportunity Act (WIOA) Title I funded service providers.

The purpose of this policy is to provide guidance and establish procedures to take reasonable steps to provide meaningful access to services for persons with Limited English Proficiency (LEP). Any individual who is prevented from meaningful access to services because of his or her inability to read, write or understand the English language is deemed to be of limited English proficiency.

REFERENCES:

- WIOA (Public Law 113-125) Section 188
- Title 29 Code of Federal Regulations (CFR) Part 38
- Employment Development Department Directive WSD17-03 Limited English Proficiency
- Department of Labor (DOL) Training and Employment Notice (TEN) 28-16, Subject: Best Practices, Partnership Models, and Resources Available for Serving English Language Learners, Immigrants, Refugees, and New Americans (January 9, 2017)
- Civil Rights Act of 1964 (Public Law 88-352) Titles VI and VII

Background:

The nondiscrimination and equal opportunity provisions found in Section 188 of WIOA and 29 CFR Part 38 prohibit discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including LEP), age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title I-financially assisted program or activity.

Definitions

For the purposes of this Directive, the following definitions apply:

Babel Notice – a short notice included in a document or electronic medium (e.g. web site, “app,” email) in multiple languages informing the reader that the communication contains vital information, and explaining how to access language services to have the contents of the communication provided in other languages (29 CFR Section 38.4[i]).

Employment-related training – training that allows or enables an individual to obtain skills, abilities and/or knowledge that are designed to lead to employment (29 CFR Section 38.4[t]).

This WIOA Title I financially assisted program or activity is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

LEP individual – an individual whose primary language for communication is not English and who has a limited ability to read, speak, write, and/or understand English. ***An LEP individual may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing) (29 CFR Section 38.4[hh]).***

LEP Plan – A written language access plan which assists in ensuring that LEP individuals have meaningful access to WIOA Title I-financially assisted programs and activities (29 CFR Section 38.9 Appendix).

Meaningful Access – Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals.

Primary language – An individual's primary language is the language in which an individual most effectively communicates, *as identified by the individual.*

POLICY:

National origin discrimination now includes LEP under 29 CFR Section 38.9 and specifically states that in providing any aid, benefit, service, or training under a WIOA Title I-financially assisted program or activity, a recipient must not, directly or through contractual, licensing, or other arrangement, discriminate on the basis of national origin, including LEP. Additionally, 29 CFR Section 38.41 added "LEP and preferred language" to the list of categories of information that each recipient must record about each applicant, registrant, eligible applicant/registant, participant and terminee.

Reasonable Steps to Ensure Meaningful Access for LEP Individuals

WIOA Title I service providers are required to take reasonable steps to ensure that LEP individuals have meaningful access to their programs and activities. Reasonable steps may include, but are not limited to, the following:

- Conducting an assessment of an LEP individual to determine their language assistance needs.
- Providing oral interpretation or written translation of both hard-copy and electronic materials, in the appropriate non-English languages, will be provided to LEP individuals; and
- Conducting outreach to LEP communities to improve service delivery in needed languages.

(29 CFR Section 38.9[b][1])

Reasonable steps for providing meaningful access to training programs may include, but are not limited to the following:

- Written training materials in appropriate non-English languages by written translation, or by oral interpretation, or summarization; and
- Oral training content in appropriate non-English languages through in-person or telephone translation.

(29 CFR Section 38.9[b][2][i][ii])

Furthermore, service providers should ensure that every program delivery, whether it be in person, electronic, or by phone, conveys, in the appropriate language, how an LEP individual may effectively learn about, participate in, and/or access any aid, benefit, service, or training available to them. It

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should also be noted that as new methods for the delivery of information or assistance are developed, service providers are required to take reasonable steps to ensure that LEP individuals remain able to learn about, participate in, and/or access any aid, benefit, service, or training available to them (29 CFR Section 38.9[c]).

Language Assistance Services

Language assistance generally comes in two forms:

1. Oral interpretation; or
2. Written translation.

Service providers must ensure that above all, these services are free of charge and provided in a timely manner. An LEP individual must be given adequate notice about the existence of interpretation and translation services and that they are available free of charge. Language assistance will be considered timely when it is provided at a place and time that ensures equal access and avoids the delay or denial of any aid, benefit, service, or training (29 CFR Section 38.9[d] and [e]).

Interpreter Services

WIOA Title I service providers shall not require an LEP individual to provide their own interpreter. Furthermore, service providers shall not rely on an LEP individual's minor child or adult family or friend to interpret or facilitate communication, except for the following circumstances:

- In emergency situations while awaiting a qualified interpreter.
- When the information conveyed is of minimal importance to the services to be provided.
- When an LEP individual specifically requests that an accompanying adult provide language assistance and they agree to provide assistance to the individual. If the service provider permits an accompanying adult to serve as an interpreter for an LEP individual, it must make and retain a record of the LEP individual's decision to use their own interpreter.

Finally, where precise, complete, and accurate interpretations or translation of information and/or testimony are critical for adjudicatory or legal reasons, service providers can still provide their own, independent interpreter, even if an LEP individual wants to use their own interpreter as well. This also applies in cases where the competency of the interpreter requested by the LEP individual is not established (29 CFR Section 38.9[f]).

Vital Information

For languages spoken by a significant portion of the population eligible to be served or likely to be encountered, subrecipients must translate vital information in written material into this language. Based upon Imperial County's demographic data, Spanish is the only other language spoken by a significant portion of the local area population to be served or likely to be encountered. Therefore, WIOA Title I service providers must translate vital information in written materials into Spanish.

These translations must in turn be readily available upon request in hard copy or electronically. Written training materials offered or used within employment-related training programs (see definitions section) are excluded from these translation requirements. However, in all cases, service providers must take reasonable steps to ensure meaningful access for LEP individuals.

For languages not spoken by a significant portion of the population eligible to be served or likely to be encountered, service providers must take reasonable steps to meet the particularized language needs

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of LEP individuals who seek to learn about, participate in, and/or access the aid, benefit, service or training that is available to them. Vital information may be conveyed orally if not translated.

WIOA Title I service providers must also be sure to include a Babel Notice, indicating that language assistance is available in all communications of vital information. This includes letters or decisions in hard copy or electronic formats (29 CFR Section 38.9[g]).

Finally, to the extent otherwise required by 29 CFR Part 38, once a recipient becomes aware of the non-English Preferred language of an LEP beneficiary, participant, or applicant for aid, benefit, services, or training, the recipient must convert vital information in that language. (29 CFR Section 38.9[h])

LEP PLAN PROCEDURE:

ICWED shall be responsible for identifying major concentrations of ethnic groups with Limited English Proficiency; staff training needs; inventorying and identifying language assistance aids such as posters, handbooks, forms, handouts, etc; and developing other language assistance aids to assist with service delivery.

This plan will be reviewed and updated on an annual basis or when any major changes in demographics, types of services, program changes, or other factors affection a specific geographic location.

WIOA funds will be used to support procurement of language assistance materials and to support costs associated with group language assistance training. Individual clients who require language assistance training are eligible for WIOA programs and services may be funded from the specific program area funds.

Identifying an LEP Individual:

At the point of first contact with an LEP individual, staff should make reasonable efforts to conduct or arrange for an initial assessment for the need for language assistance services and make reasonable efforts to obtain such services if they are needed to effectively communicate with the individual.

Staff can determine an individual's language needs by:

- Inquiring if the individual identifies themselves as a non-English Speaker or LEP individual;
- Inquiring as to the primary language of the individual who is in need of LEP services;
- Providing an "I Speak..." identification card;
- Inquiring from multilingual staff or interpreter to verify an individual's primary language.

Written Material

Spanish has been identified and the only language that is spoken by a significant portion of the location area; therefore, Spanish materials must be readily available at all times. In order to provide LEP individuals with the most appropriate services, the following will occur:

- Notice of free LEP services will be posted at all AJCC and WIOA funded service provider locations;
- When an LEP individual is seeking services, a Babel Notice must be provided to them.
- Letters containing important information regarding participation programs will be translated into the identified language of th LEP individual;
- Notices pertaining to the granting or denial of benefits will be translated into the identified language of the LEP individual;

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- Notices of rights to appeal will be translate into the identified language of the individual;
- Notices that require responses from beneficiaries will be translated into the identified language of the LEP individual

Oral Language Interpretation

- Oral translation will be provided as needed. In order to provide translation services, the following will occur:
- Imperial County Workforce Development Office will hire qualified bilingual staff in order to provide interpreter and translator services that meet the needs of the local demographics.
- A qualified Spanish speaker must be available at all times during business hours in order to provide interpretation and translation services, as Spanish is the only identified language that is spoken by a significant portion of the local area.
- The information regarding all LEP services must also be provided in the individuals identified language.
- Telephone interpreter services will be used when needed in order to ensure prompt delivery of services.
- The LEP individual has the right to free interpreter services. Using family members, friends or community volunteers will be sought out for translation or interpretation services when necessary.
- Staff will also take advantage of computer online translation services whenever needed.
- For additional assistance, Please see the LEP Toolkit provided by the Department of Labor: <https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/external/limited-english-proficient/toolkit>.

To determine the resources available to provide language assistance to the LEP person and the cost associated with those resources, staff will explore the most cost-effective means of delivering competent and accurate language services.

TRAINING

All staff will receive training in proper LEP protocol and procedure in order to better meet the needs of clients. ICWED will provide a yearly training to all staff members regarding the LEP Plan in order to ensure all staff are up to date on this policy. All employees are required to be aware of the LEP process in order to better serve clients. The completion of this yearly training will be monitored by the ICWED.

DISCRIMINATION COMPLAINT PROCEDURE

According to federal regulations, an LEP individual has the right to file a complaint if they feel they have been discriminated against. Posters should be posted in seven different languages at the that AJCC and WIOA funded program locations or their right to file a complaint. Also, this information should be verbally communicated to all LEP individuals.

MONITORING:

ICWED is responsible for ensuring oversight of the WIOA Title I funded programs. It is the responsibility of the ICWED to monitor the implementation of this policy. Monitoring shall take place by means of on-site visits to America's Job Center of California and contracted Service Providers. Site visits shall be performed at a minimum once a year. An annual monitoring visit schedule and monitoring review tool will be used to ensure adherence to WIOA laws, regulations and policies to insure that LEP clients are provided appropriate access to programs or activities. In order to better provide access to services, revisions of this policy will occur periodically to ensure its effectiveness, as the needs of the local area changes. As new resources develop, those options will be explored.

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ACTION:

Please bring this policy to the attention of ICWDB, AJCC system staff and appropriate WIOA funded service providers and sub-recipients. This policy is effective immediately. All submitted forms are live documents and subject to change according to local, State, and Federal needs. Once the forms and exhibits pertaining to this policy are approved by the ICWDB, they will not require board approval if other changes occur, unless the change affects protocols. Should you have any questions, please feel free to contact ICWDB staff at (442) 265-4974, (442) 265-4959, (442) 265- 4955 or the Program and Compliance Manager (442) 265-4963.

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EQUAL OPPORTUNITY IS THE LAW

It is against the law for this recipient of federal financial assistance to discriminate on the following bases: Against any individual in the United States, on the basis of race; color; religion; sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity); national origin (including limited English proficiency); age; disability; political affiliation or belief; or against any beneficiary of, applicant to, or participant in, programs financially assisted under Title I of the *Workforce Innovation and Opportunity Act* (WIOA), on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

The recipient must not discriminate in any of the following areas: Deciding who will be admitted, or have access, to any WIOA Title I financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity.

Recipients of federal financial assistance must take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

WHAT TO DO IF YOU BELIEVE YOU HAVE EXPERIENCED DISCRIMINATION

If you think that you have been subjected to discrimination under a WIOA Title I–financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either the recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose); or the Director, Civil Rights Center (CRC), U.S. Department of Labor 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210; or electronically as directed on the CRC website at www.dol.gov/crc.

If you file your complaint with the recipient, you must wait either until the recipient issues a written *Notice of Final Action*, or until 90 days have passed (whichever is sooner), before filing with the CRC (see the address above).

If the recipient does not give you a written *Notice of Final Action* within 90 days of the day on which you filed your complaint, you may file a complaint with CRC before receiving that notice. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).

If the recipient does give you a written *Notice of Final Action* on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within 30 days of the date on which you received the *Notice of Final Action*.

WIOA Section 188 Equal Opportunity Officer
Veronica Curiel Agundez, Equal Employment Opportunity Officer
2799 South 4th Street
El Centro, CA 92243
Direct Line: (442) 265-4958
E-mail: veronicacuriel@co.imperial.ca.us

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Notice to Individuals with Limited English Proficiency of Language Assistance Services

County of Imperial will provide free language assistance services, including translated documents and oral interpretation, free of charge and in a timely manner, when such services are necessary to provide meaningful access to individuals with limited English proficiency.

ATTENTION: If you speak English, language assistance services, free of charge, are available to you. Call 442-265-1148 or TTY 442-265-1169.

ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 1-442-265-1148.

注意：如果您使用繁體中文，您可以免費獲得語言援助服務。請致電 1 – 442-265-1148

CHÚ Ý: Nếu bạn nói Tiếng Việt, có các dịch vụ hỗ trợ ngôn ngữ miễn phí dành cho bạn. Gọi số 1-442-265-1148.

PAUNAWA: Kung nagsasalita ka ng Tagalog, maaari kang gumamit ng mga serbisyo ng tulong sa wika nang walang bayad. Tumawag sa 1-442-265-1148.

주의: 한국어를 사용하시는 경우, 언어 지원 서비스를 무료로 이용하실 수 있습니다. 1-442-265-1148번으로 전화해 주십시오.

ՈՒՇԱԴՐՈՒԹՅՈՒՆ՝ Եթե խոսում եք հայերեն, ապա ձեզ անվճար կարող են տրամադրվել լեզվական աջակցության ծառայություններ: Ձանգահարեք 1-442-265-1148:

توجه: اگر به زبان فارسی گفتگو می کنید، تسهیلات زبانی بصورت رایگان برای شما فراهم می باشد. با 1-442-265-1148 تماس بگیرید.

ВНИМАНИЕ: Если вы говорите на русском языке, то вам доступны бесплатные услуги перевода. Звоните 1-442-265-1148.

注意事項：日本語を話される場合、無料の言語支援をご利用いただけます。1-442-265-1148 まで、お電話にてご連絡ください。

ملحوظة: إذا كنت تتحدث اذكر اللغة، فإن خدمات المساعدة اللغوية تتوافر لك بالمجان. اتصل برقم 1-442-265-1148 (رقم هاتف الصم والبكم: 1-442-265-1148).

ਧਿਆਨ ਦਿਓ: ਜੇ ਤੁਸੀਂ ਪੰਜਾਬੀ ਬੋਲਦੇ ਹੋ, ਤਾਂ ਭਾਸ਼ਾ ਵਿੱਚ ਸਹਾਇਤਾ ਸੇਵਾ ਤੁਹਾਡੇ ਲਈ ਮੁਫਤ ਉਪਲਬਧ ਹੈ। 1-442-265-1148 'ਤੇ ਕਾਲ ਕਰੋ।