



RIVERSIDE COUNTY
WORKFORCE DEVELOPMENT BOARD

**LIMITED ENGLISH PROFICIENCY
POLICY**

Date: October 19, 2017

Number: 19-24

PURPOSE: This policy provides the guidance and establishes the procedures regarding the prohibition against national origin discrimination as it affects persons with Limited English Proficiency (LEP). This policy applies to Local Workforce Development Areas (Local Areas) and other Workforce Innovation and Opportunity Act (WIOA) Title I grant recipients. This policy is effective immediately.

EFFECTIVE DATE: Immediately

REFERENCES: WSD17-03 August 11, 2017
Riverside County WDB Nondiscrimination and Equal Opportunity October 4, 2017
WIOA (Public Law 113-125) Section 188
Title 29 Code of Federal Regulations (CFR) Part 38
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)*

LOCALLY IMPOSED REQUIREMENTS: None

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.

POLICY:

The Economic Development Agency/Workforce Development Division (EDA/WDD) expressly adopts and implements the Limited English Proficiency (LEP) provisions of Title 29 Code of Federal Regulations (CFR) Part 38 Department of Labor (DOL) Training and Employment Notice (TEN) 28-16, as referenced in Employment Development Department (EDD) Directive WSD-17-03 stipulates:

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 arrangements, 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/registrant, participant, and terminee.

The EDA/WDD, its America’s Job Centers of California SM (AJCC) staff, partners, contracted subrecipients service providers and any other entity providing services must comply with the Limited English Proficiency (LEP) provisions of the Workforce Innovation and Opportunity Act by providing notice to customers, applicants, registrants, participants, herein after, referred to as “individuals” at the start of services of available LEP services.

Definitions

For the purposes of this Policy, 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]).

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.

Reasonable Steps to Ensure Meaningful Access for LEP Individuals

The EDA/WDD is required to take reasonable steps to ensure that LEP individuals have meaningful access to 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, to LEP individuals.
- 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.
- Oral training content in appropriate non-English languages through in-person or telephone translation.

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

EDA/WDD requires every program delivery method, 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 should also be noted that as new methods for the delivery of information or assistance are developed, EDA/WDD will require and implement all 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: oral interpretation or written translation. EDA/WDD will 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

EDA/WDD shall not require an LEP individual to provide their own interpreter. Furthermore, EDA/WDD 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. *Should an accompanying adult serve as an interpreter for an LEP individual, EDA/WDD must casenote in CalJOBS 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, EDA/WDD will 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])

Concerning Vital Information

For languages spoken by a significant portion of the population eligible to be served or likely to be encountered, EDA/WDD will translate vital information in written materials into these languages. These translations are 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, EDA/WDD will 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, EDA/WDD will take reasonable steps to meet the particularized language needs 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. EDA/WDD will 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 EDA/WDD becomes aware of the non-English preferred language of an LEP beneficiary, participant, or applicant for aid, benefit, service, or training, EDA/WDD will convey vital information in that language.
(29 CFR Section 38.9[h])

PROCEDURE: LEP PLAN

Background

Individuals with Limited English Proficiency (LEP) must be provided meaningful access to EDA/WDD's America's Job Centers of California (AJCC) programs and services. A LEP individual is a person whose primary language is a language other than English and requires interpretation and/or translation services in order to effectively participate in AJCC programs and services. An individual who has sufficient English skills to effectively participate in AJCC programs and services using English is not a LEP individual, even if that individual's primary language is a language other than English.

Under no circumstances shall services to a LEP individual be denied or unnecessarily delayed due to the individual's limited English proficiency. Interpreter services are free of charge to individuals and are considered an allowable cost under WIOA.

Posting Notices

Notices in commonly used languages (e.g., Spanish) by LEP individuals announcing the availability of free interpretation services shall be conspicuously posted in the lobby of the AJCC's.

Selecting Interpreter Services

When possible, a LEP individual should be served by an employee who speaks the individual's language. The AJCC employs a sufficient number of bilingual Spanish speaking staff to serve the LEP Spanish speaking individuals. For deaf or hearing impaired individuals, interpreter services include the AJCC interpreter, the Center on Deafness, or the use of the two-way communication device "Ubi-Duo" (available at each AJCC). A LEP individual may provide an interpreter of their own choosing at their expense. The interpreter should be used to augment interpreter services provided through the AJCC's. Any refusal of interpreter services should be noted in an enrolled individual's participant file.

Staff Training

Staff and partners of the AJCC, contracted subrecipients, service providers and any other entity providing services to individuals seeking WIOA services will receive training on serving LEP customers on an as needed basis such as with new staff/partners or when plan modifications occur. Training will be coordinated through the Regional Training Coordinator with various content experts identified by the California Workforce Development Board. LEP policy information is available on-demand through the AJCC's Sharepoint site.

REVISION HISTORY:

Revision Dates:	None
Original Policy Date:	None



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