

WIOA Region 5 (South Central and Southwest)

Policy Letter #2-2022 Language Access Plan

Effective Date: June 8, 2022

Purpose: The purpose of the policy is to provide guidance and establish procedures for ensuring that limited English proficient (LEP) customers are being provided meaningful access to program information, activities and services and are able to participate effectively regardless of their ability to speak, read, write or understand English.

Background: The nondiscrimination and equal opportunity provisions found in Section 188 of Workforce Innovation and Opportunity Act (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.

National origin discrimination includes Limited English Proficiency (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 exited participant.

Cites / References: WIOA (Public Law 113-125) Section 188
29 CFR 38
DEED WIOA Policy Manual Chapter 5.2 Providing Language Access

Definitions of Terms: **Babel Notice** – A short notice included in a document or electronic medium 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 (29CFR Section 38.4[i]).

Limited English Proficiency (LEP) - means an individual who has a limited ability to read, speak, write, and/or understand English. LEP individuals 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 FR Section 38.4[hh]).

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.

Vital Information or Documents - information, whether written, oral or electronic, that is necessary for an individual to understand how to obtain any aid, benefit, service, and/or training; necessary for an individual to obtain any aid, benefit, service, and/or training; or required by law (29 FR Section 38.4[ttt]).

Procedures:

Reasonable Steps to Ensure Meaningful Access for LEP Individuals

Program providers will take reasonable steps to ensure meaningful access to information about services, programs or activities so LEP individuals can participate. Program providers will collect the preferred language of each customer. No person will be denied access to any program, activity, or service because they do not speak English or communicates in English on a limited basis. Program providers will foster effective communication between its staff and customers with LEP by making appropriate language assistance services available when needed. This will be done in a timely manner and at no cost to the customer. Program providers will initiate an offer for language assistance to clients who have difficulty communicating in English. When an individual asks for language assistance, staff must offer free interpretation and/or translation services in a language they understand, in a way that preserves confidentiality, and in a timely manner.

Reasonable steps for meaningful access may include but are not limited to:

- Assessment of an LEP individual to determine language assistance needs.
- Oral interpretation or written translation of both hard copy and electronic materials; and
- Written training materials in appropriate non-English languages by written translation or oral interpretation or summarization, or oral training content in appropriate non-English languages through in-person interpretation or telephone interpretation.
- Consideration of LEP individuals in developing new methods of delivering information or assistance.
- Outreach to LEP communities to improve service delivery.
- Convey every program delivery avenue (electronic, in person, telephonic) in appropriate languages so that an individual may effectively learn how to participate in or access any aid, benefit, service, or training the recipient provides.

Reasonable steps may be affected by:

1. The scope of the program and activity, and
2. The size and concentrations of non-English speaking populations that need services or information in a language other than English.

LEP Population and Need

To identify the need among individuals who require language assistance, Workforce Development Area Region #5 utilizes a four-factor analysis:

1. The number or proportion of LEP persons served or encountered in the Local Workforce Development Area (LWDA).
2. The frequency with which LEP individuals come in contact with the program, service or activity.
3. The nature and importance of the program, activity, or service experienced by the individual.
4. The resources available to the recipient and costs.

Language Assistance Services

Language Assistance in general comes in two forms, oral interpretation or written translation.

Program providers in WIOA Region 5 will ensure that an LEP individual is given adequate notice of the existence of interpretation and translation services and that these services are available free of charge and must be provided in a timely manner. The Babel Notice will be provided at time of application and reviewed at enrollment. Language assistance is considered timely when it is provided at a time and place that ensures equal access and avoids delays of any aid, benefit, services or training at issue. Program providers are encouraged to use the “I speak” cards and can be downloaded at

<https://www.dol.gov/sites/dolgov/files/OASAM/legacy/files/ISpeakCards.pdf>.

Program providers will use competent interpretation and translation service to ensure accurate information. WIOA Region 5 program providers use bilingual staff, Language Line and competent third-party providers.

Interpreter Services

To provide effective services to persons with LEP, WIOA Region 5 program providers will use bilingual staff, competent interpreters and Language Line services. “Competency” requires that interpreters will have demonstrated proficiency in both English and the intended language; training that includes the skills and ethics of interpreting; fundamental knowledge in both languages of any specialized terms or concepts; and sensitivity to the customer’s culture.

General requirements

1. Verify customer identity - before releasing case-specific information, program providers must verify the identity of the customer. Bilingual staff, Language Line Services staff, or 3rd party interpreters providing interpretation or translation services may assist staff in making verifications.

2. Document use of interpreter - staff must always document in the customer's file or keep appropriate records when an interpreter is used or when a customer makes use of another form of language assistance. Accurate documentation is especially important for direct service staff.
3. In-person interpreter services - if an interpreter is needed in-person, rather than over the telephone, staff will arrange to have an interpreter available at a time and place that is convenient for both the interpreter and the customer. Staff may arrange for in-person interpreting by contacting vendors directly.

Use of Family, Friends or Minor Children as Interpreters

Program providers cannot require an LEP individual to provide their own interpreter nor may a program provider rely on an LEP individual's minor child or adult family or friend to interpret or facilitate communications except:

- In emergency situations while waiting for a qualified interpreter; or
- The accompanying adult (not minor child) may interpret when the information conveyed is of minimal importance to the services to be provided or when the LEP individual specifically requests the accompanying adult to provide language assistance and the accompanying adult agrees to do so. The service provider must make a note in the LEP individual's records of the decision to use their own interpreter.

Program providers may accommodate an individual's wishes to have family or friends serve as interpreters. Staff must keep in mind the issues of customer confidentiality and interpreter competency. Follow these guidelines:

- Protection of confidentiality and accuracy of interpretation should always be of highest concern, particularly if the interview concerns topics that may negatively affect eligibility for services.
- Always offer free interpreter services, as LEP individual may not be aware of interpreter services.
- If a LEP individual prefers to have a family member or friend serve as an interpreter, ask if the LEP individual will allow a trained interpreter to listen in to ensure accuracy of interpretation. If the offer is refused, document the offer and refusal and accommodate the LEP individual's wishes.
- Minor children should not be used as interpreters.
- Bilingual staff or contracted interpreters should be used in circumstances when a LEP individual is giving information that may negatively affect his/her eligibility for services, including deadlines or certifications.
- Competent bilingual staff or contracted interpreters are preferred in situations where a customer must answer complicated or detailed questions. If family or friends handle the interpreting, follow-up calls or letters should be done by bilingual staff, Language Line Services staff, or competent third party providers.
- If private information will be disclosed, please refer to the requirements of the [Minnesota Government Data Practices Act](#).

Where precise, complete, and accurate interpretation or translation of information is critical for adjudicatory or legal reasons, or where the competency of the interpreter requested by the LEP individual is not established, a service provider may decide to provide its own independent interpreter, even if the LEP individual wants to use their own interpreter as well.

Translation of Vital Information

Vital documents or information are those that are critical for accessing federal funded services or benefits or are documents required by law. Vital documents should be a priority for translation, particularly when the four-factor analysis reveals a need for these documents to be translated (based on the Department of Justice's safe harbor guidance). They include but are not necessarily limited to:

- Applications
- Consent and complaint forms
- Letters with eligibility or participation information
- Notices regarding reduction, denial, or termination of services/benefits and the right to appeal such actions
- Notices that require a response from participants
- Notices that offer free language assistance

For languages spoken by a significant number or portion of the population eligible to be served, or likely to be encountered, service provider must:

1. Translate vital information in written materials into these languages and make the translations readily available in hard copy, upon request, or electronically such as on a Website.

Note: Written training materials offered or used within employment-related training programs are excluded from these translation requirements, but reasonable steps must be taken to ensure meaningful access.

2. For languages not spoken by a significant number of the population eligible to be served or likely to be encountered, a service provider must take reasonable steps to meet the particularized language needs of LEP individuals who seek services or information from the service provider. Vital information must be conveyed orally if not translated.
3. Program providers also must include a "Babel Notice" indicating in appropriate languages that language assistance is available in all communications of vital information, such as hard copy letters of decisions or those communications posted on websites.

Level of Language Ability

Some LEP clients may not have the ability to read and understand written materials; therefore, oral interpretation of written materials may be necessary.

Interpreters should be aware of variances within a language and should be able to communicate with clients using the appropriate colloquial speech.

Assisting customers with various levels of literacy

Program providers must assist LEP individuals who cannot read their preferred language to the same extent as they would assist English-speaking customers who cannot read English.

Monitoring Language Needs and Implementation

WIOA Region 5 will monitor census data and other indicators to affirm the need in the LWDA. WIOA Region 5 will also connect and obtain input from community-based organizations who specialize in serving LEP individuals. If it is determined that LEP language groups are seeking or are potentially eligible, program providers will adjust its methods and services to serve the population. In addition, the local Equal Opportunity Officer will regularly assess the efficiency of the LEP policy and procedures, including but not limited to the mechanisms for securing interpreter services, equipment used for the delivery of language assistance, complaints filed by LEP individuals and feedback from customers, staff, partners and community-based organizations.

Public Notices

Program Providers will:

1. Post Notice to the Public, "Equal Opportunity is the Law," in a location that is accessible to the customer.
2. Display the Notice in appropriate languages in a location that is accessible to the public.
3. Provide "Equal Opportunity is the Law" to all WIOA title 1 program applicants