



WORKFORCE DEVELOPMENT BOARD
OF SOLANO COUNTY

POLICY ISSUANCE

Date: March 22, 2019

Number: 2019-03

LIMITED ENGLISH PROFICIENCY POLICY

INTRODUCTION

This policy provides the guidance to the Workforce Development Board (WDB) of Solano County in providing meaningful access to program information, benefits and services to Limited English Proficiency (LEP) customers. This policy also provides opportunities for customers to effectively participate in the services offered regardless of their ability to speak, read, write or understand English.

QUESTIONS

Questions relating to this policy should be directed to Marion Aiken, Workforce Services Manager, at maiken@solanowdb.org or (707) 863-3594.

ATTACHMENTS

- Attachment A: Definitions of Key Terms

POLICY

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 now 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.

This policy guidance does not create new obligations or requirements but rather clarifies standards consistent with case law and well-established legal principles developed under Title VI. The purpose of this guidance is to assist recipients in fulfilling their responsibilities to provide meaningful access to LEP persons under existing law by providing a description of the factors recipients should consider in fulfilling their responsibilities to LEP persons. The policy guidance reiterates Department of Labor's (DOL) longstanding position that in order to avoid discrimination against LEP persons on the grounds of national origin, recipients must take reasonable steps to ensure that such persons receive, free of charge, the language assistance necessary to afford them access to the programs, services, and information those recipients provide.

Staff is required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. The DOL's revised LEP guidance includes an individualized assessment that balances four factors that should be applied when assessing language needs and deciding reasonable steps. The objective of the four-factor analysis is to suggest a reasonable balance that ensures meaningful access by LEP customers to critical services while not imposing undue burdens. The four-factor analysis includes:

- 1) The number or proportion of LEP persons served or encountered in the eligible services population;
- 2) The frequency with which LEP persons come in contact with the program;
- 3) The nature and importance of the program, activity, or service provided by the WDB; and
- 4) The resources available to the WDB and costs.

This policy and an LEP plan will be fully implemented in the event that the Workforce Development Board of Solano County experiences and increase above 15% of LEP individuals who may access WIOA funded services and programs.

Staff has two primary ways to provide language services: Oral interpretation either in person or via a telephone interpretation service and written translation. The correct mix of language assistance services should be based on what is both necessary and reasonable in light of the four-factor analysis.

When oral interpretation is needed and is reasonable, staff should consider the following options: ensuring the competence of the interpreters, hiring bilingual staff, hiring staff interpreters, contracting for interpreters, using telephone interpreters' lines, using community volunteers or using family members or friends.

When using written translation services, the WDB should make a determination regarding the kinds of documents to be translated, the language subject to interpretation, and the expertise of the translator(s).

The Dymally-Alatorre Bilingual Services Act requires that, when state and local agencies serve a "substantial number of non-English speaking people," they must

employ a “sufficient number of qualified bilingual staff in public contact positions” and must translate documents explaining available services into their clients’ languages. The DABSA allows local agencies discretion in establishing the level and extent of bilingual services they provide.

After completing the four-factor analysis and deciding what language assistance services are appropriate, a recipient should develop an implementation plan. A written plan is not required, but is highly recommended by the state. One-Stop Career Centers should address the following five elements when developing their own LEP service plan:

- 1) Identification of LEP persons who need language assistance;
- 2) Use of language assistance measures;
- 3) Staff training;
- 4) Information dissemination to LEP persons; and
- 5) Monitoring and oversight.

In addition to these five elements, effective plans set clear goals, management accountability, and opportunities for community input and planning throughout the process. Detailed explanations of the above five elements, as well as the four-factor analysis, are provided in the Federal Register. The Federal Interagency Work Group at www.lep.gov provides tools and resources to assist One-Stop Career Centers when developing and assessing a plan for LEP services.

DISCLAIMER

This policy is based on WDB’s interpretation of the statute, along with the Workforce Investment and Opportunity Act; Final Rule released by the U.S. Department of Labor and federal and state policies relating to WIOA implementation. This policy will be reviewed and updated based on any additional federal or state guidance.

REFERENCES

Law

- WIOA (Public Law 113-125) Section 188
- Title 29 Code of Federal Regulations (CFR) Part 38

Federal Guidance

- Training and Employment Notice (TEN) 28-16, Change 1 – [Best Practices, Partnership Models, and Resources Available for Serving English Language Learners, Immigrants, Refugees, and New Americans](#)

State Guidance

- Workforce Services Directive (WSD) 17-03 – [Limited English Proficiency](#)

Approved by

Workforce Development Board of Solano County

DEFINITION OF KEY TERMS

Babel Notice – as defined by 29 CFR Section 38.4 – 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.

Employment-related Training – as defined by 29 CFR Section 38.4 – training that allows or enables an individuals to obtain skills, abilities, and/or knowledge that are designed to lead to employment.

LEP Individual – as defined by 29 CFR Section 38.9 Appendix – an individual whose primary language for communication is not English and who has a limited ability to read, speak, write, and/or understand English. A 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).

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

Meaningful Access – as defined by 29 CFR Section 38.4 – Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individuals. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior as compare to programs or activities provided to English proficient individuals.

Primary Language – as defined by 29 CFR Section 38.4 – An individuals’ primary language is the language in which an individual most effectively communicates, as identified by the individual.



WORKFORCE DEVELOPMENT BOARD
OF SOLANO COUNTY

EMPLOYEE ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING FOR:
LIMITED ENGLISH PROFICIENCY POLICY
(Issued: March 22, 2019)

The Workforce Development Board (WDB) of Solano County's Limited English Proficiency Policy contains important information pertaining to my employment and duties at the WDB.

A copy of this policy has been given to me to retain for future reference, and I have been provided with the location on the Shared Drive for the policy where I can obtain an electronic copy.

Since the information and policies described in the policy are necessarily subject to change, I acknowledge that revisions to the policy may occur. All such changes will be communicated through official notices. I understand that revised information may supersede, modify, or eliminate existing policies.

I have received the Limited English Proficiency Policy and I understand that it is my responsibility to read and comply with the information contained in this policy and any revisions made to it.

I understand that I should consult my supervisor if I have any questions about the information contained in the policy. I understand that failure to comply with the information contained in the policy could lead to disciplinary action or termination.

Employee's Name (printed): _____

Employee's Signature: _____ Date: _____