



CENTRAL REGION

Central Virginia Workforce Development Board

Workforce Innovation and Opportunity Act (WIOA) Administrative Policy #210

Subject: Limited English Proficiency

Date of Issuance: March 19, 2019

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).

References:

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)

Policy:

In regards to Equal Opportunity, the Central Virginia Workforce Development Board (CVWDB) acknowledges that 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/registant, and participant.

Definitions:

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.

Employment-related training – training that allows or enables an individual to obtain skills, abilities and/or knowledge that are designed to lead to employment.

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).

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.

Procedure:

CVWDB program operators 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, to LEP individuals.
- Conducting outreach to LEP communities to improve service delivery in needed languages.

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.

Furthermore, Title I Staff should ensure that that 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, CVWDB will 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.

Language assistance generally comes in two forms: oral interpretation or written translation. Virginia Career Works Center staff 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.

Virginia Career Works Center staff shall not require an LEP individual to provide their own interpreter. Furthermore, staff 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.

For languages spoken by a significant portion of the population eligible to be served or likely to be encountered, vital information in written materials must be translated into these languages. 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, Center staff 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, staff must take reasonable steps to meet the particular 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.

Staff must also be sure to include a Babel Notice, indicating that language assistance is available in all communications of vital information. CVWDB considers full registration on the Virginia Workforce Connection (VAWC) and WIOA Title I eligibility as vital information. This information may be accessed in Spanish at www.vawc.virginia.gov. The need for additional document or language translation will be handled on a case-by-case basis.

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, service, or training, the recipient must convey vital information in that language.