MADERA COUNTY WORKFORCE Development Board

ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY POLICY

EDD Revision Date: 10/2/01; 3/29/05; 5/12/05
WDB Review Date: 3/22/07; 12/17/15; 12/15/16

EXECUTIVE SUMMARY:

Purpose:

This document establishes the Workforce Development Board of Madera County's policy on providing local guidance and procedures, consistent with Federal requirements, regarding the prohibition against national origin discrimination as it affects persons with Limited English Proficiency (LEP).

Scope:

The guidance in this policy applies to the Madera County Local Workforce Development Area (LWDA) and all other Workforce Innovation and Opportunity Act (WIOA) Title I grant recipients or subrecipients.

Effective Date:

This policy is effective on the date of approval by the Workforce Development Board of Madera County.

REFERENCES:

- WIOA, Section 188
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000)
- Federal Register, Volume 68, Number 103, Civil Rights Center; Enforcement of Title VI of the Civil Rights Act of 1964; Policy Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons; Notice (May 29, 2003)
- Dymally-Alatorre Bilingual Services Act, Government Code Section 7290-7299.8
- Department of Labor (DOL) Training and Employment Guidance Letter (TEGL) 26-02, Publication of Revised Guidance Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (May 29, 2003)

STATE-IMPOSED REQUIREMENTS:

This policy contains no State-imposed requirements.

FILING INSTRUCTIONS:

This policy implements the guidance published in TEGL 26-02 for programs funded under Title I of the WIOA. Retain this policy until further notice.

BACKGROUND:

The Civil Rights Act of 1964 and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives federal financial assistance. Section 188 of the WIOA contains the nondiscrimination and equal opportunity provisions. These provisions prohibit discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, or participation in WIOA Title I-financially assisted programs and activities, including participation by citizens and noncitizens eligible to participate in Title I programs. The Employment Development Department Workforce Services Directive WSD15-24 provides federal and State requirements regarding nondiscrimination and equal opportunity procedures.

As required by Executive Order 13166, entitled "Improving Access to Services for Persons with Limited English Proficiency," issued by the President on August 11, 2000, the DOL Civil Rights Center (CRC) published policy guidance in the Federal Register (January 17, 2001) regarding the prohibition against national origin discrimination as it affects persons with limited English proficiency. The policy guidance was issued pursuant to the requirements of Title VI of the Civil Rights Act and Section 188 of the Workforce Investment Act.

Based on public comments received in response to the January 17, 2001, guidance and further instructions from the Department of Justice, the DOL published revised policy guidance in the Federal Register on May 29, 2003.

The CRC published revised policy guidance in the Federal Register on May 29, 2003. The revised 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 policy is to assist the LWDA and local subrecipients in fulfilling their responsibilities to provide meaningful access to LEP persons under existing law. This guidance clarifies existing legal requirements for LEP persons by providing a description of factors that should be considered in fulfilling the responsibilities to LEP persons. This policy reiterates DOL's longstanding position that in order to avoid discrimination against LEP persons on the grounds of national origin, local areas and subrecipients 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 being provided.

Determine the Extent of Your Obligation to Provide LEP Services

Local recipients and subrecipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. The DOL's 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 individuals come into contact with the program;
3. The nature and importance of the program, activity, or service provided; and
4. The resources available to the WIOA-funded entity and costs.

Select Language Assistance Services

Recipients have 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 reasonable and necessary in light of the four factor analysis.

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

When using written translation services, the recipient 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 (DABSA) 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 establishes specific legal mandates for state agencies, but allows local agencies discretion in establishing the level and extent of bilingual services they provide. It is suggested that local recipients and subrecipients review the DABSA in conjunction with the CRC guidance in reviewing and revising their policies and procedures regarding services to LEP individuals.

Develop an Effective Plan on Language Assistance for LEP Persons

After completing the four factor analysis and deciding what language assistance services are appropriate, a recipient should develop an implementation plan. Although having a written plan is not a requirement, it is recommended by the State. One-Stop Career Centers should consider the following five elements in developing a LEP service plan:

1. Identification of LEP individuals who need language assistance
2. Use of language assistance measures
3. Staff training
4. Information dissemination to LEP persons
5. Monitoring and oversight, including updating the LEP plan

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, and the complete guidance issued by CRC are provided in the Federal Register.

The Federal Interagency Working Group on LEP web site, www.lep.gov, provides tools and resources to assist in the development and assessment of plans for LEP services.

ACTION:

This policy will be disseminated in the Local Workforce Development Area to the One-Stop Career Centers, satellite locations, and WIOA Title I-funded subrecipients.

INQUIRIES:

If you have any questions, please contact the Executive Director or the local Equal Opportunity Officer at (559) 662-4500.