**EQUAL OPPORTUNITY**

**Chapter 5.2: Providing Language Access (29 CFR 38.9 and Appendix to 38.9)**

**Summary**
This chapter identifies DEED’s compliance with Chapter 5 of the Nondiscrimination Plan and the nondiscrimination regulations which requires that recipients of Workforce Investment and Opportunity Act (WIOA) Title I funds provide information and services in languages other than English when a "significant number or proportion" of persons to be served are individuals with limited English.

**Relevant Laws, Rules, or Policies**
Section 188 of WIOA [29 CFR 38](https://www.govinfo.gov/content/pkg/FR-2016-12-02/pdf/2016-27737.pdf)

Appendix to [29 CFR 38.9](https://www.govinfo.gov/content/pkg/FR-2016-12-02/pdf/2016-27737.pdf) – Guidance to Recipients

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**Policy**

It is the policy of DEED to ensure equal access to WIOA Title I services for limited English and non-English speaking customers. All recipients of WIOA Title I funds have an affirmative duty to take reasonable steps to provide services and information in languages other than English so that limited English proficient (LEP) individuals are effectively informed about and/or can participate in the program or activity.

**Standard**

Each LWDA shall collect the preferred language of each customer in Workforce One. Each LWDA shall also designate a Language Assistance Coordinator and develop a Language Access Plan or guidance and training to assist staff in providing meaningful access to LEP individuals.

Local Areas 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 when requested.
* Conducting outreach to LEP communities to improve service delivery in needed languages.

Examples of reasonable steps for providing meaningful access to training programs may include but are not limited, to providing written training materials in appropriate non-English languages by translation, oral interpretation, or summarization.

Local Areas should make sure 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. As new methods for the delivery of information or assistance are developed, Local Areas are required to 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.

**Recipient Responsibilities**

*Programmatic Access*

A recipient must take reasonable steps to ensure meaningful access to information about services, and programs, or so that individuals can participate in programs or activities by providing language access. Recipients should include information in their local area plans on what reasonable steps they have identified to ensure meaningful access. Reasonable steps may include, but are not limited to:

1. An assessment of an LEP individual to determine language assistance needs.
2. An oral interpretation or written translation of both hard copy and electronic materials in the appropriate non-English languages; and
3. Written training materials offered or used within employment-related training programs as defined under § 38.4(t) are excluded from these translation requirements. The vital information these training materials contain can be provided to LEP participants by oral interpretation, summarization during the training program itself, or other reasonable steps. However, recipients must still take reasonable steps to ensure meaningful access to training programs as stated in the regulations.
4. Consideration of LEP individuals in developing new methods of delivering information or assistance.
5. Outreach to LEP communities to improve service delivery.
6. 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.

*Interpretation and Translation*

1. Recipients must provide language assistance services (whether oral or written), and such services must be:

* Accurate;
* Provided in a timely manner; and
* Free of charge.

Note: Language assistance is considered timely when it is provided at a time and place that ensures equal access and avoids the delay or denial of any aid, benefit, services, or training at issue.

2. Recipients must also provide adequate notice to LEP individuals of the existence of interpretation and translation services and that these language assistance services are free of charge.

3. A recipient may not require an LEP individual to provide their own interpreter nor may a recipient rely on an LEP individual’s minor child or adult family or friend to interpret or facilitate communication except:

* In emergencies 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 recipient must make a note in the LEP individual’s records of the decision to use their own interpreter.

4. 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 recipient may decide to provide its own independent interpreter, even if the LEP individual wants to use their own interpreter as well.

5. If LEP interpreter/translator services are required, determine the location and availability of persons in the local service area who are fluent in more than one language to provide services and information in other languages.

*Conveying Vital Information (Babel Notice)*

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

* 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 recipient must take reasonable steps to meet the particularized language needs of LEP individuals who seek to learn about, participate in, and/or access services or training that the recipient provides. If vital information is not translated it must be conveyed orally by the recipient. CFR 38.9(g)(2)

3. Recipients 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.

*Language Access Plan*

Recipients should develop a written language access plan to ensure that LEP individuals have meaningful access.

*Notice*

Post Notice to the Public, “Equal Opportunity is the Law,” in a location that is accessible to the customer.

Display the Notice in appropriate languages in a location that is accessible to the public. The Notice is available in English, Hmong, Laotian, Russian, Chinese, Somali, Spanish, and Vietnamese.

Alternate formats are available to individuals with disabilities by calling 651-259-7094 or by emailing DEED.ODEO@state.mn.us