

SOUTHERN WORKFORCE BOARD



LIMITED ENGLISH LANGUAGE PROFICIENCY (LEP) POLICY

SWB – #132

Approved March 14, 2018



SWB is an Equal Opportunity Employer/Program and Activities. Auxiliary aids and services are available upon request to individuals with disabilities.

BABEL NOTICE (29 C.F.R. § 38.9(g) (3)): This document contains vital information. If English is not your preferred language, contact One Stop Operator, ososouthern@gmail.com, 1414 E. Wade Watts Ave. McAlester, Ok. 74501 (580)634-1853 TTD/TTY: 711 or 800-722-0353 to obtain translation and/or interpretation services for the content of this document

SUBJECT: Limited English Language Proficiency (LEP)

PURPOSE: To establish Southern Workforce Board's (SWB) policy for Limited English Language Proficiency (LEP) to comply with Oklahoma Workforce Development Issuance (OWDI) #17-2017.

BACKGROUND: The nondiscrimination and equal opportunity provisions found in Section 188 of 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 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, participant, and terminee.

DEFINITIONS:

Babel Notice: a short notice included in a document or electronic medium (e.g. web site, application, "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 (29 CFR Section 38.4(i)).

Employment-related training: training that allows or enables an individual to obtain skills, abilities and/or knowledge that are designed to lead to employment (29 CFR Section 38.4(t)).

Limited English Proficiency (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) (29 CFR Section 38.4(hh)).

Limited English Proficiency (LEP) Plan: A written language access plan which assists in ensuring that LEP individuals have meaningful access to WIOA Title I-financially assisted programs and activities (29 CFR Section 38.9 Appendix).

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.

POLICY:

Reasonable Steps to Ensure Meaningful Access for LEP Individuals

Reasonable steps to ensure that LEP individuals have meaningful access to their programs and activities must be taken. Reasonable steps (29 CFR Section 38.9(b)(1)) 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.

Furthermore, assurance 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, 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 will be taken (29 CFR Section 38.9(c)).

Language Assistance Services

Language assistance generally comes in two forms: oral interpretation or written translation. These services shall be 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. For LEP individuals who enter an Oklahoma Works (One-Stop) Center, language assistance services must be timely, and with adequate notice, where feasible. 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 (29 CFR Section 38.9(d) and (e)).

Interpreter Services

LEP individuals are not required to provide their own interpreter nor shall staff 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;
or
- When an LEP individual specifically requests that an accompanying adult provide language assistance and they agree to provide assistance to the individual. If an accompanying adult to serve as an interpreter for an LEP individual, it must make and retain a record of the LEP individual's decision to use their own interpreter.

Finally, where precise, complete, and accurate interpretations or translation of information and/or testimony are critical for adjudicatory or legal reasons, SWB can still provide their own, independent interpreter, even if an LEP individual wants to use their own interpreter as well. This

also applies in cases where the competency of the interpreter requested by the LEP individual is not established. (29 CFR Section 38.9(f))

Concerning Vital Information

For languages spoken by a significant portion of the population eligible to be served or likely to be encountered, SWB must translate vital information in written materials 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, reasonable steps to ensure meaningful access for LEP individuals must occur.

For languages not spoken by a significant portion of the population eligible to be served or likely to be encountered, reasonable steps to meet the particularized 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 must be taken. Vital information may be conveyed orally if not translated.

A Babel Notice, indicating that language assistance is available in all communications of vital information must be included. This includes letters or decisions in hardcopy or electronic formats. (29 CFR Section 38.9(g))

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. (29 CFR Section 38.9(h))

Developing a Written LEP Plan

In order to ensure that reasonable steps are taken to allow meaningful access for LEP individuals, a written LEP plan will be developed. By implementing a LEP plan, it is more likely to fulfill their obligation of taking reasonable steps to ensure meaningful access to programs and activities by LEP individuals. Furthermore, developing and implementing an LEP plan has many benefits, including providing center staff with a roadmap for establishing and documenting compliance with nondiscrimination obligations and ensuring that LEP individuals receive the necessary assistance to participate in the programs and activities of a Local Area.

Framework for meaningful access to LEP individuals includes:

- Policy documents, employee manuals, employee training material, posters, web sites, outreach material, contracts, and electronic and information technologies, applications, or adaptations will be made available upon request.
- Language assistance services in the area include:
 - Interpreter available upon request
 - Spanish speaking interpreters are accessible for every office
 - Online translating software
 - Rapid response is available in Spanish upon request
 - Marquees provide slides in Spanish
 - OkJobMatch can be translated into approximately 106 different languages by simply selecting the language you wish at the bottom of the home page.

- The SWB One-Stop Operator (OSO) will provide training for workforce system staff and will have oversight for the implementation of the LEP plan. The Operator will provide workforce system staff with guidance regarding the implementation of the LEP Plan and serve as a resource during the implementation phase.
- The SWB ensures quality control, including monitoring, a complaint process, addressing complaints, and obtaining feedback from stakeholders and employees.
- Title I providers are required to document provision of language services through self-attestation, detailed program notes and the Individual Employment Plan (IEP)/Individual Service Strategy (ISS).
- The LEP plan will be revisited annually to reflect any of the following:
 - New recommendations and government guidance.
 - Changes in the Local Area's operations as well as the experiences and lessons learned.
 - Changing demographics.
 - Stakeholder and beneficiary feedback
- Language needs properly recorded in participant's file and on the electronic database, identification of LEP status and preferred language of each applicant, registrant, participant, terminatee, applicant for employment and employee must be collected and recorded.

It should be noted that the elements of a successful LEP plan are not fixed and must be tailored to specific programs and activities.

(29 CFR Section 38.9 Appendix)

EQUAL OPPORTUNITY AND NONDISCRIMINATION: All providers must comply with WIOA's Equal Opportunity and Nondiscrimination provisions which 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 limited English proficiency), age, disability, 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.

Added from OESC Procedures

Procedures for Language Interpreter Services & Sign Language Services

On-Site Interpretive Service

For an on-site Language Interpreter, contact the Interpretive Service by phone or on their website to set up an in-person appointment. Follow the same procedures to set an appointment for an on-site Speech/Hearing Interpreter (Interpretive Services Information Below).

Once the services have been rendered, the interpretive service will send an Invoice. Upon receipt, scan and e-mail the invoice to the Civil Rights Administrator/ADA Coordinator to authorize payment. The original can be retained by the Center Manager.

Telephone Interpretive Service

When any OESC or Partner Staff call Language Line Solutions (LL) for a Telephone Interpreter during the month, a record must be kept of each occurrence. Once the call is completed, Staff is to notify the Center Manager (CM) of the usage by e-mail or by keeping and accumulative record of their usage on a Monthly Language Line Log Sheet. CMs are welcomed to provide copies of the log sheet to each staff or to have staff notify them by e-mail of the usage. CMs will keep an accumulative record of the usage on a log to forward to the Civil Rights Administrator/ADA Coordinator (CRA) no later than the first week of the following month.

It is important for staff to remember to notify CMs if they use the interpretive services during the month since LL sends an Invoice to our Finance Department at the beginning of each month which reflects each time their services were used during the previous month. Separate invoices are sent according to the Client ID which was provided at the time the call was initiated. The invoice contains a list of the dates, times, duration (number of minutes), languages requested, and the Interpreter's assigned LL Code Number.

LL keeps record of, and charges the agency for, every minute, even those that result in disconnection. The CRA must confirm that each charge on the invoice is legitimate before authorization can be released to pay. This is done by comparing the charges with the usage reports received from the Centers and Division Units. If there is no record of the usage, then the CRA has to call the CMs or Unit Supervisors to find out if they have a record of the usage. If a record cannot be found, the CRA then contacts LL to request a credit for that particular charge. This is a time consuming process which prevents the CRA from returning the invoices to Finance to release timely payment. When coupled with too many requests for credits, it can result in unnecessary problems between the agency and the Interpretive Service. It is important to stress to staff the significance of following procedure to prevent the agency from being charged for services that were not requested or used, which does happen much too often.

The following information represents the Language Services (Language Interpreter, Sign Language Interpreter, and Document Translation) that we have available to us under State contract to aid our customers:

Language Interpreter (Telephone Only)

- 1) Call **Language Line Services @ 1-866-874-3972;**
- 2) Enter the six (6) digit Client ID Number, (i.e., **534XXX**). This is the number assigned to the Workforce Center or Division Unit;
- 3) Enter the three (3) digit Agency Access Code, (i.e., **290**). This number is on the Quick Reference Guide;
- 4) Follow the Instructions to select the Language needed.

Language Interpreter (Telephone & On-Site) Also Document Translation

Language Associates (Contact by phone to request services)

7925 N. Hudson, Ste. C
Oklahoma City, OK 73114
405-946-1624
405-946-1302 (Fax)
877-488-1559 (Toll Free)

<http://www.languageassociates.net/contact.html> (Website)

la@languageassociates.net (E-mail)

Sign Language Interpreters (On-Site)

1) Total Source for Hearing-Loss and Access (TSHA) (Contact by phone or on website to request services)

8740 E 11th St

Tulsa, OK 74112

405-228-4064 (v/tty)

918-832-8742 (v/tty) (Closed Fridays)

918-834-4329 (Fax)

888-311-3523 (Toll Free – v/tty) (voice only after hours)

<http://www.tsha.cc/terpspolicy.htm> (Website)

<http://tsha.cc/staff.htm> (Staff E-mails)

Rates: Approximately \$60 per hour (i.e., \$105 for 1.75 hours)

2) Sign Language Resources Services (SLRS) (Contact by phone or on website to request services)

PO Box 7

Edmond, OK 73083

405-721-0800 (Closed Fridays until 8/1/13)

405-470-6000 (Fax)

405-212-4319 (Video Phone)

888-842-9460 (Toll Free)

<http://www.slrsinc.com/SLRS/Home.html> (Website)

Last used in May 2011. Rate @ \$64 per hour; charged \$128 for 2 hours

Either Service can be used based on availability; however, TSHA has proven to provide quality and timely service. Contact the CRA at 405-557-7255, if further clarification is needed.