
Limited English Proficiency (LEP)

PURPOSE

The purpose of the policy is to provide guidance and establish procedures for ensuring that limited English proficient customers of Pacific Gateway Workforce Innovation Network (Pacific Gateway) are being provided meaningful access to program information, benefits and services and are able to participate effectively regardless of their ability to speak, read, write or understand English.

BACKGROUND

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.

POLICY

This policy seeks to establish procedures regarding the prohibition against national origin discrimination as it affects persons with LEP and to outline how Pacific Gateway will serve this special population.

A. Definitions

Babel Notice - A short notice included in a document or electronic medium (e.g. website, "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]).

LEP Individual - An individual whose primary language for communication is not English and who has 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., reading or writing) (29 CFR Section 38.4[hh]).

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.

Vital Information - Information on how to access and utilize WIOA and American's Job Center of California (AJCC) services and programs including, WIOA orientation and eligibility.

PROCEDURES

A. LEP Population and Need

To identify the need among individuals who require language assistance, Pacific Gateway utilizes a three-factor analysis:

1. The number or proportion of LEP persons served or encountered in the Local Workforce Development Area (LWDA).
2. The frequency with which LEP individuals come in contact with the AJCC, program, service or activity.
3. The nature and importance of the program, activity, or service experienced by the individual.

In Pacific Gateway's LWDA, it has been determined that the four most predominant languages are English, Spanish, Khmer, and Tagalog. This information is based on census data on limited English proficient individuals in the LWDA, demographics, unemployment rates, and an analysis of the AJCC's customer flow.

B. Reasonable Steps to Ensure Meaningful Access for LEP individuals

Pacific Gateway has and will continue to take reasonable steps to ensure that individuals have meaningful access to programs and activities. Reasonable steps may include, but are not limited to the following:

- Conducting an assessment of LEP individuals to determine their language needs.
- Providing quality oral interpretation or written translation of both hard-copy and electronic materials in a timely manner, in the appropriate non-English languages to LEP individuals.
- Conducting outreach to LEP communities to improve service delivery in needed languages.
- Identifying training vendors and training partners who provide training in Spanish, Khmer and Tagalog.
- Utilizing multilingual signage, the Language Line (when a bilingual staff member is not available) and hiring sufficient bilingual staff to meet the needs of Spanish, Khmer and Tagalog speakers.
- Translating the outgoing phone line.
- Ensuring language access includes access not just to information, but to training and services.

Furthermore, Pacific Gateway will ensure that vital information on how to access AJCC services is available in the appropriate language, including how an LEP individual may effectively learn about, participate in and/or access services or training available to them. It should be noted as new methods for the delivery of information or assistance are developed, Pacific Gateway will take the necessary

steps to ensure that LEP individuals remain informed, participate in, and /or access any aid, benefit, service or training available to them.

C. Language Assistance Services

Language assistance generally comes in two forms:

1. Oral interpretation; or
2. Written translation

Pacific Gateway will ensure 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 that are available free of charge. For LEP individuals who enter Pacific Gateway AJCCs, 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.

The City of Long Beach has established the Language Access Policy (LAP) to promote greater access to services, programs, and activities with the goal of attaining meaningful and understandable access for limited English language proficiency individuals. As part of the LAP, on-site oral interpretation and document translation services are available upon request. Pacific Gateway's Equal Opportunity (EO) Officer shall be contacted to request oral interpretation and document translation from LAP.

In addition, Pacific Gateway has identified staff with language fluency in a number of languages including Spanish, Khmer, and Tagalog. These individuals are able to be accessed to assist in oral interpretation.

D. Interpreter Services

Pacific Gateway does not require, suggest or encourage LEP individuals to use friends, family members or minor children as interpreters. LEP individuals seeking services, assistance or information must be notified that this is Pacific Gateway's policy with respect to interpreters. Staff must seek certified bilingual employees to assist LEP individuals when LEP individuals seek services, assistance or information. If a certified bilingual employee is not available, staff must utilize the Language Line.

Adult Family Members and Friends as Interpreters: Adult family members and friends are not trained interpreters, may not be proficient in English or the primary language spoken by an LEP individual and may not understand technical terminology or situations. Utilizing adult family members and friends as interpreters also carries the risk of bias in the translation process, inadvertently through the choice of words or emphasis, or through intentional omission of facts. It may also diminish the LEP individual's willingness to be candid.

The use of adult family members and friends is only permissible if a bilingual staff person and Language Line are not available or the LEP individual indicates the preference to use their own interpreter. The use of adult family members and friends is strongly discouraged, but not prohibited.

If an LEP individual utilizes an adult family member or friend as an interpreter, Pacific Gateway must document this in writing. The documentation must include the date of service, staff's name, the type of assistance requested, the reason that an adult family member or friend was utilized (bilingual staff and Language Line not available or preference of the LEP individual) and the language utilized by the LEP individual.

Adults are defined as individuals who are 18 years or older.

Children and Minors as Interpreters: The use of children and minors as interpreters can cause serious harm to their well-being. Children do not have the appropriate vocabulary or literacy to understand fully and communicate accurately. They may be embarrassed or overwhelmed by having to ask sensitive questions or relay bad news. LEP adults may also self-censor the information they share to protect against exposing children to difficult situations. Children are not trained interpreters, may not be proficient in English or the primary language spoken by an LEP individual, and may not understand technical terminology or situations. Utilizing children also carries the risk of bias in the translation process, inadvertently through the choice of words or emphasis, or through intentional omission of facts.

The use of children and minors as interpreters is prohibited absent emergency circumstances. Emergency circumstances are defined as situations that require deviation from procedures, such as a threat to health, safety or property. Examples of emergency circumstances include, but are not limited to, loss of housing, loss of benefits or utility shut offs. The use of children and minors in emergency circumstances should be limited to initial communications to alleviate the emergency. Once the emergency situation has passed, staff must make best efforts to find an appropriate alternative.

Emergency circumstances when children are used as interpreters must be documented in writing by Pacific Gateway. This documentation must include the date of service, staff's name, nature of the emergency, age of the child, type of assistance requested and the language utilized by the LEP individual.

Children and minors are defined as individuals under the age of eighteen

E. Translation of Vital Information

Based on a demographic analysis, Spanish, Khmer, and Tagalog are the languages spoken by a significant portion of the local area population eligible to be served or likely to be encountered. Pacific Gateway must translate vital information into written materials in Spanish, Khmer, and Tagalog. These translations must be readily available upon request in hard copy or electronically. If they are not immediately available, they shall be made available in a reasonable amount of time to ensure timely assistance to the LEP individual. Written materials offered or used within employment-related training programs (see definition section) are excluded from these translation requirements. However, in all cases, Pacific Gateway must take reasonable steps to ensure meaningful and timely access for LEP individuals.

For languages not spoken by a significant portion of the eligible population to be served or likely to be encountered, Pacific Gateway must take 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. Vital information may be conveyed orally if not translated.

Pacific Gateway must also include a Babel Notice, indicating that language assistance is available in all communication of vital information. This includes letters or decisions in hard copy or electronic formats.

All translated documents must be reviewed for accuracy and should have mechanisms in place to verify the accuracy of the translated document.

F. Training and Dissemination of Information

Pacific Gateway shall make AJCC staff and its partners aware of its established LEP policy and procedures, methods of providing services and other pertinent information and resources related to serving LEP individuals. Pacific Gateway's EO Officer will conduct training annually and will provide

one-on-one training for newly hired staff members. Staff shall be trained on how to work with an LEP individual, as well as how to work with interpreters.

G. Monitoring Language Needs and Implementation

Pacific Gateway's EO Officer will annually monitor census data and other indicators to affirm the need in the LWDA. Pacific Gateway will also connect and obtain input from community-based organizations who specialize in serving LEP individuals. If it is determined that other LEP language groups are seeking or are potentially eligible, Pacific Gateway will adjust its methods and services to serve the new population. In addition, the EO Officer will regularly assess the efficiency of the LEP policy and procedures, including but not limited to the mechanisms for securing interpreter services, equipment used for the delivery of language assistance, complaints filed by LEP individuals and feedback from customers, staff, partners and community-based organizations.

H. Delivery of Services to LEP Individuals

A language identification card should be maintained in reception areas and other prominent locations to allow an LEP individual to identify his/her language.

Each AJCC should have vital information made available in accessible areas such as the reception desk or area, resource center or building entries in native languages.

The AJCC should have signage such as directional signs and welcome signs in Spanish, Khmer, and Tagalog,

Information shared on the AJCC's general number or mainline must be translated into Spanish, Khmer, and Tagalog and made accessible at all times.

If a bilingual staff member is not available to translate or if the customer speaks a language that staff is not equipped to translate, staff is to refer to the City's Bilingual Staff Directory or contact the City's Language Line. The EO Officer may also be contacted to assist with identifying alternative resources to assist the LEP individual.

For situations that require an on-site interpreter, the EO Officer contacts the City's LAP to coordinate arrangements for interpretation services.

When a staff member receives a telephone call from a person who speaks a language other than English or is having difficulty communicating in English, the call is to be routed to a bilingual staff member in a timely manner. If a bilingual staff member is not available the AJCC Manager or EO Officer is to be contacted.

During the initial orientation and intake process, all individuals are asked to self-identify special needs and/or requirements to determine eligibility and priority of service.

An intake assessment is used to assess the language and or accessibility needs, and reasonable steps to ensure meaningful access to services by limited English proficient individuals.

The Comprehensive Adult Student Assessment System (CASAS) may be administered to help identify basic skills deficiencies. The results are to be used to assure appropriate services are coordinated and provided to participants.

Staff shall refer LEP participants and assist in the coordination of services with partners and community-based organizations that specialize in serving LEP individuals.

Staff shall identify and coordinate services with training vendors and training providers who provide training in other languages.

Trainings and services, as well as related materials, shall be available in Spanish, Khmer and Tagalog.

I. Complaint Process

LEP individuals who believe or have been subjected to discrimination prohibited by the nondiscrimination and equal opportunity provisions of WIOA can file a written complaint to the EO Officer, Alisa Munoz. LEP individuals may file their complaints in their primary language. Complaints are to be submitted to the following address:

Attn: Alisa Munoz, EO Officer
Pacific Gateway
4811 Airport Plaza Drive, Suite 200
Long Beach, CA 90815

REFERENCES

- WIOA (Public Law 113-128), Sections 188
- Title 29CFR, Part 38 "Implementation of Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act"
- Workforce Services Directive WSD17-03, "Limited English Proficiency" (August 11, 2017)

INQUIRIES

For questions or assistance related to this policy, please contact Pacific Gateway Workforce Innovation Network staff at (562) 570-3748.

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