

TRIDENT

STATE INSTRUCTION LETTER 01-02

GUIDANCE ON THE PROHIBITION AGAINST NATIONAL ORIGIN DISCRIMINATION AS IT AFFECTS PERSONS WITH LIMITED ENGLISH PROFICIENCY

TO: Trident Workforce Investment Area Contractors and Staff

ISSUANCE DATE: October 18, 2001

EFFECTIVE DATE: Immediately

SUPERSEDES: N/A

SUBJECT: Universal Access Policy

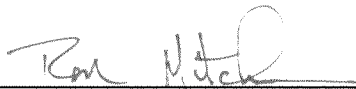
PURPOSE: To transmit and clarify that local Workforce Investment Areas and service providers have a responsibility to provide translation and interpretation assistance to individuals having limited English proficiency.

POLICY: Recipients of Federal financial assistance must take reasonable steps to ensure that individuals having limited English proficiency (LEP) receive the language assistance necessary to afford them meaningful access to the programs, services, and information provided by the recipients.

PROCEDURES:

SC Works Trident Staff, Operators, Partners and Contractors shall comply with the attached instruction letter 01-08.

SC Works Trident has established an Interpretive Services Policy to coincide with this Instruction Letter. Policy is located on <http://intranet.toscc.org>.



Ronald Mitchum, Executive Director
BCDCOG

June 27, 2012
Date



South Carolina



Employment Security Commission



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STATE WIA INSTRUCTION NUMBER : WIA 01- 02

TO: Local Workforce Investment Area Administrators and ES Local Offices

SUBJECT: Guidance on the Prohibition Against National Origin Discrimination as It Affects Persons with Limited English Proficiency

ISSUANCE DATE: October 18, 2001

EFFECTIVE DATE: Immediately

PURPOSE: To clarify that, as recipients of federal financial assistance, local Workforce Investment Areas (LWIA) and service providers have a responsibility to provide translation and interpretation assistance to individuals having limited English proficiency.

AUTHORITY: Title VI of the Civil Rights Act of 1964, as amended; Section 188 of the Workforce Investment Act of 1998; Executive Order 13166 (August 11, 2000); and Federal Register, vol. 66, no.11, Wednesday, January 17, 2001/Notices, p. 4603.

Recipients of federal financial assistance must take reasonable steps to ensure that individuals having limited English proficiency (LEP) receive the language assistance necessary to afford them meaningful access to the programs, services, and information provided by the recipients. This assistance must be provided free of charge.

Among the factors to be considered in determining "reasonable steps" are the following:

- the number or proportion of LEP individuals eligible to participate or likely to be directly or significantly affected by the program or activity;
- the nature and importance of the program or activity to the participant or beneficiary;
- the resources available to the recipient in carrying out the program or activity;
- the frequency with which LEP individuals come into contact with the program or service the objectives of the program or service;

State WIA Instruction Number: WIA 01- 02
Page (2)

- the size of the recipient;
- the objectives of the program or service; and,
- the frequency with which languages other than English are encountered.

The key to ensuring “meaningful access” to services and benefits for LEP individuals is to guarantee that the language assistance provided results in accurate and effective communication between the recipient and the applicant or participant/beneficiary about:

- the types of services and/or benefits and
- the applicant’s or participant’s/beneficiary’s circumstances.

Effective programs for LEP services usually consist of the following:

- Annual assessment of the language needs of the population to be served through, for example:
 - identification of the languages other than English that are likely to be encountered in the program or activity and by estimating the number of LEP individuals who are eligible for services and or benefits and who are likely to be directly affected by the program or activity;
 - review of census and state labor-market data;
 - review of statistics from school systems, community agencies and organizations; and,
 - comparison to participant/beneficiary demographic data.
- Recording LEP status in participants’/beneficiaries’ files to ensure consistent communication in the appropriate language.
- Identifying the stages or contact points in the program or services where language assistance is likely to be needed.
- Reviewing delivery systems to determine whether any program system denies or limits participation by LEP individuals.
- Understanding circumstances in which there may be a need for third-party communication (for example, communicating with the limited-English-proficient parent of a student under the age of 18).
- Identifying and locating the resources that are needed to provide the language assistance.

Development and Implementation of a Written Policy on Language Access

The State’s *Methods of Administration*, tentatively approved by the Civil Rights Center, U.S. Department of Labor (CRC, USDOL) pending successful implementation, may be adapted

locally to fulfill the requirement for a written policy. There are two major components to a language-access program:

- oral language interpretation and
- translation of written materials.

I - Oral Language Interpretation

An effective language-assistance program may include some or all of the following steps:

- hiring bilingual staff who are trained and competent in interpreting;
- hiring staff interpreters who are trained and competent in interpreting;
- contracting with an outside interpreter service for qualified interpreters;
- arranging formally for the services of volunteers who are qualified interpreters; and,
- arranging/contracting for the use of a telephone language-interpreter service.

Fundamental to program success is training in effective translation, to include orientation to terminology that may be peculiar to a particular program as well as the need to maintain confidentiality in the process.

Telephone interpreter services may be inadequate in light of the need for familiarity with program content and also if and when there is a need to review documents. Therefore, telephone interpreter services should not be offered as the only option except where other options are unavailable.

Cautions about Interpreter Services

1. Use of Family, Friends or Minor Children as Interpreters

A LWIA may expose itself to liability under Title VI and Section 188 if it requires, suggests, or encourages the use of friends, family members, or minor children as interpreters. Use of such persons could result in a breach of confidentiality or reluctance on the part of individuals to disclose personal information critical to their situations. In addition, there may be a concern about competency in communication.

If, after a LWIA informs an LEP individual of the right to free interpreter services, the person declines such services and requests the use of family or a friend, the LWIA may use the designated individual *if* the use of such a person would not compromise the effectiveness of services or violate the individual's confidentiality. The LWIA should document the offer and declination in the individual's file and should suggest that a trained interpreter sit in on the meeting to ensure accurate interpretation.

2. Level of Language Ability

The ability of LEP individuals to read and understand written materials in their native language will vary; therefore, oral interpretation of written materials may be necessary. Interpreters should be aware of variances within a language and should be able to communicate with individuals using the appropriate colloquial speech.

3. Qualified Interpreters

Being qualified as an interpreter does not necessarily require formal certification. However, the requirement to be qualified contemplates:

- demonstrated proficiency in both English and the other language;
- orientation and training that include the skills and ethics of interpreting (for example, issues of confidentiality);
- fundamental knowledge, in both languages, of specialized terms or concepts peculiar to the LWIA's program or activity;
- demonstrated ability to convey information in both languages, accurately; and,
- sensitivity to the individual's culture.

II - Translation of Written Materials

An effective language-assistance program ensures that written materials that are routinely provided in English to applicants, participants/beneficiaries and the public are available in regularly encountered languages other than English. In accordance with the current policy guidance from the CRC, USDOL:

CRC will consider a LWIA to be in compliance with the Title VI and Section 188 obligation to provide written materials in languages other than English if:

- (A) The LWIA provides translated written materials for each LEP language group that constitutes ten percent or 3,000, whichever is less, of the population of persons eligible to be served or likely to be directly or significantly affected by the LWIA's program or activity;
- (B) Regarding LEP language groups that constitute five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be directly or significantly affected by the LWIA's program or activity, the LWIA ensures that, at a minimum, vital documents are translated into the appropriate languages other than English of such LEP persons. Translation of other documents, if needed, can be provided orally; and,

- (C) Notwithstanding paragraphs (A) and (B) above, a LWIA with fewer than five percent or 1,000 persons in a language group eligible to be served or likely to be directly or significantly affected by the LWIA's program or activity, need not translate written materials but rather may provide written notice in the language of the LEP language group of the right to receive competent oral interpretation of written materials.

Verbatim translations may not accurately or appropriately convey the substance of what is contained in the written materials. Moreover, written materials should be translated to serve the average reading level of the LEP community to be served.

The failure to provide written translations under the circumstances outlined above will not necessarily mean noncompliance with Title VI and Section 188. If written translation of a certain document or set of documents would be so financially burdensome as to defeat the legitimate objectives of the LWIA's program or activity, and there is an alternative means to provide LEP individuals with meaningful access to the information, such as timely, oral interpretation of vital documents, this may suffice when reviewing the program or activity in its totality.

For language groups that are below the numerical thresholds discussed in subparagraphs (A) through (C) above, a LWIA can ensure meaningful access to preliminary information by, at a minimum, providing notice, in writing, in the LEP individual's primary language, of the right to receive free language assistance, including the right to competent oral interpretation of written materials, free of cost.

Methods for Providing Notice to LEP Individuals

Outreach programs and materials should notify LEP individuals of their rights to and the availability of language assistance. Some suggested methods:

- public-service announcements on television or radio;
- newspaper advertisements;
- materials distributed to organizations that serve LEP individuals;
- use of language-identification cards (for example, "I speak (*language*) cards") that allow LEP beneficiaries to identify their language needs to staff;
- posting signs in regularly encountered languages in waiting rooms, reception areas, and other initial points of entry;
- translation of applications and instructional and information materials;
- oral interpretation of documents; and,
- uniform procedures for timely and effective telephone communication.

Staff Training

New employees and customer-contact staff should receive training to ensure that they:


- are knowledgeable about LEP policies and procedures;
- are trained to work effectively with in-person and telephone interpreters; and,
- understand the dynamics of interpretation between LEP participants/beneficiaries, the LWIA's staff and interpreters.

Monitoring

It is crucial for a LWIA to monitor its language-assistance program to ascertain whether it meets the needs of the community. It is recommended that LWIAs involve community groups in the monitoring process, a process that should be conducted at least biennially.

ACTION: Each LWIA must develop and implement policies and procedures that include the provisions stated above and adhere to the Policy Guidance on the Prohibition Against National Origin Discrimination as it Affects Persons With Limited English Proficiency issued by the USDOL on January 17, 2001. (Attachment)

CONTACT: A copy of the CRC's *Notice of Policy Guidance* is available at <http://fr.cos.com/cgi-bin/getRec?id=20010117a16> . Addressees should also feel free to contact Ms. Chena Melvin, Equal Opportunity Officer, if there are any questions. She may be reached at (803) 737-2408; via e-mail at cmelvin@sces.org; or via the South Carolina Relay Service (TDD/TTY) at 1-800-735-8583 and (ASCII) at 1-800-735-7293.



C. Michael Mungo, Executive Director