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Employment Security Department Language Access Plan

Introduction

At the Employment Security Department (ESD), we believe in the Power to Help when people need it most. We provide economic security to the people of Washington every day across the state. We help people find jobs, bridge gaps in employment, and provide paid family medical leave.

ESD is one of the largest executive agencies in Washington state government, employing over 2,000 people. The agency delivers employment and training services, manages unemployment insurance benefits, collects and analyzes labor market information and administers the state's Paid Family and Medical Leave program.

Purpose of the Plan

ESD is required by law to take reasonable steps to ensure meaningful access to programs and services for customers with limited English proficiency (LEP). Our commitment to equitable access goes beyond legal compliance and is reflected in our values of acting with compassion and kindness for our customers, reflecting the communities we serve, valuing differences, and putting customers at the center of our decisions. This plan summarizes ESD's efforts to provide language services to LEP customers and includes steps we take to ensure meaningful access to programs and services.

The purpose of the plan is to:

- Implement ESD's Limited English Proficiency Policy and standards set forth in Title VI of the Civil Rights Act of 1964 and Section 188 of the Workforce Innovation and Opportunity Act (WIOA) of 2014. Ensure ESD provides meaningful access to LEP customers as part of its mission to provide our communities with inclusive workforce solutions that promote economic resilience and prosperity.
- Remove barriers for LEP customers to access ESD programs and services.
- Describe systems for providing quality language access services to LEP customers.
- Provide a model for local language access plans.

The plan outlines measures to ensure the quality and consistency of ESD's language access services, making it easy for LEP customers to do business with the agency. By investing in a clear and effective language access plan, ESD demonstrates commitment to our mission to provide our communities with inclusive workforce solutions that promote economic resilience and prosperity.

ESD will review and update the plan every two years. This ensures the agency continues to respond to customer needs and to comply with Title VI of the Civil Rights Act and Section 188 of WIOA.

Responsible Staff

LEP Committee: Committee members represent their divisions and participate in the implementation of the plan and will review and update the plan every two years. The State-Level Equal Opportunity (EO) Officer is the Executive Sponsor for the committee with responsibility to provide state and agency level leadership and support. The committee is co-chaired by a Senior Equal Opportunity Consultant with responsibility for policy and regulation interpretation and consultation, and compliance monitoring; and the Product, Planning and Performance division's LEP/ADA Coordinator with responsibility for leading plan implementation and the coordination, prioritization and tracking of projects.

Executive leadership: Set expectations and ensure implementation of language access services. Provide staff resources as appropriate.

ESD divisions: Responsible for language access services within the division. Provide available division-specific data to the LEP Committee and appoint a staff member to serve on the LEP Committee. Identify existing and new vital documents and prioritize their translation. Participate in language access process improvement initiatives.

ESD staff: Understand expectations and obligations to effectively communicate with and provide meaningful access to LEP customers. Take reasonable steps to provide services when working with LEP customers. Identify and communicate any gaps or challenges in providing services to LEP customers to supervisors and language access points of contact.

Assessing Language Access Needs

Four-factor Analysis

ESD will use the U.S. Department of Labor's four-factor analysis to assess the language access needs of our customers. The four factors are:

1. The number or proportion of LEP individuals served or encountered in the eligible service population.

Population data on LEP individuals in the service area can be obtained from:

- [U.S. Census American Community Survey](#)
- [Washington Office of Superintendent of Public Instruction](#)
- Refugee service organizations
- Community-based organizations

2. The frequency with which LEP individuals encounter the program.

ESD programs and services will record the limited English proficiency and preferred language of customers including applicants, registrants, participants, and terminees, when the customer agrees to provide the information. This voluntary information will be collected in conjunction with other voluntary equal opportunity demographic information such as race, ethnicity, sex, disability status, and age. ESD will use data from customer case management systems and telephonic interpretation reports to determine the frequency of contact of LEP individuals.

3. The nature and importance of the program, activity or service provided.
4. The resources available and the cost.

Based on these factors, ESD divisions may determine different language access needs for different programs, services or activities. This standard is intended to be flexible. Divisions will use language preference and frequency of contact data in the four-factor analysis to determine the levels of service to provide to customers. Each division will identify and prioritize both the language groups seeking services from its programs and those who live in the service area and may be eligible for their programs.

Language access strategies should be developed when a significant number or proportion of the population eligible to be served, or likely to be directly affected by a program or activity, needs services or information in a language other than English. This allows LEP individuals to be effectively informed about, or able to participate in, the program or activity.

Even when there is not a significant number or proportion of LEP individuals in the service area, ESD will make reasonable efforts to meet the language needs of all customers who need services or information.

Identifying Languages for Translations

Once ESD becomes aware of the non-English preferred language of an LEP beneficiary, participant, or applicant for aid, benefit, service, or training, ESD must convey vital information in that language.

Vital documents are program documents that are necessary for an individual to understand how to obtain any aid, benefit, service, and/or training; necessary for an individual to obtain any aid, benefit, service, and/or training; or required by law.

For languages spoken by a significant number or proportion of the population eligible to be served, or likely to be encountered, ESD 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. ESD has identified Spanish as a language group that comprises a significant proportion of the population eligible or likely to be served. As a result, vital documents have been and continue to be translated into Spanish.

For languages not spoken by a significant number or proportion of the population eligible to be served, or likely to be encountered, a recipient must take reasonable steps to meet the particular language needs of LEP individuals who seek to learn about, participate in, and/or access the aid, benefit, service, or training that the recipient provides. Vital information may be conveyed orally if not translated.

Providing Language Access Services

Any language assistance services, whether oral interpretation or written translation, must be accurate, provided in a timely manner and free of charge. 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 at issue.

***Note:** The procedures for providing sign language interpretation are covered under federal and state disability laws, and ESD Policy and Procedures #0013-1 – Reasonable Accommodation and Nondiscrimination on the Basis of Disability.*

Oral Language Services

Bilingual Employees — Employees who are fluent in another language may provide oral language services. When a frequent need exists to serve LEP customers in one or more languages, consideration should be given to placing bilingual employees in that office. Care is taken that the person is not only bilingual but can convey information in the language and do so in the terms specific to the program. Contact your supervisor or manager to determine staff designated as 'Fulltime Dual Language' or 'Occasional Use Dual Language' at your location.

Hiring Bilingual Employees — The following steps may be taken when hiring bilingual staff, depending on the needs of the position: develop an exercise to be used during the interview process that measures an individual's skill level (as an example, ask candidates to answer questions in the designated language). Engage bilingual interview panel members who can assess the interpretation portion of the interview.

Contracting for Interpreters — Contracting for interpreters may be cost-effective when there is no consistent need for a language skill. Contracting with organizations that provide interpretation services may be a cost-effective option for WorkSource. Local areas may use partners or community based organizations who offer interpreter services.

Telephonic Interpretation — Telephonic interpretation allows for quick, responsive service for a wide number of languages. ESD maintains an agency contract for these services and divisions and offices have their own accounts to utilize these services.

Bilingual Partners — Bilingual staff from other state agencies, refugee agencies, and community-based organizations may be useful for less critical programs and activities. They should be competent in conveying information in the language, trained in the information or services of the program, and knowledgeable about applicable confidentiality and impartiality rules.

Using Family Members or Friends of the LEP Individual — ESD will not require an LEP individual to provide their own interpreter and will not rely on an LEP individual's minor child or adult family or friend(s) to interpret or facilitate communication.

The customer needs to understand the specifics of the services being provided including eligibility and requirements for the program. If the customer declines an interpreter, ESD must make and retain a record of the LEP individual's decision to decline an interpreter or use their own interpreter.

Where precise, complete, and accurate interpretations or translation of information and/or testimony are critical for adjudicatory or legal reasons, or where the competency of the interpreter requested by the LEP individual is not established, ESD may decide to provide its own, independent interpreter, even if an LEP individual wants to use their own interpreter as well.

Interpreter Competency – Interpreters should be competent in the skill of interpreting. However, ESD does not require the use of certified interpreters in our program and service delivery. Interpreters should:

- Demonstrate expertise and ability to communicate information effectively, accurately, and impartially, in both English and in the other language.
- Identify and employ the appropriate mode of interpreting (e.g., consecutive interpreting, simultaneous interpreting, or sight translation).
- Be proficient in both languages in specialized terms or concepts of the program or activity.
- Have knowledge of any particular vocabulary and phrases used by the LEP individual.
- Understand and follow confidentiality and impartiality rules to the same extent as ESD staff for whom they are interpreting must follow.
- Understand and adhere to their role as interpreters without deviating into a role as a counselor, legal advisor, etc.
- Allow service to be provided in a timely manner.

Resources for staff to obtain oral languages services for customers — A resource list or local language access plan should be circulated to all local staff and should always be present at the front desk. The list or local plan should contain a list of bilingual staff or interpreters at the site or at nearby locations, with their contact information and which language(s) they speak, and information on other agencies or organizations who are willing to assist with language access services. It should also include resources for in-person interpretation services and telephonic interpretation services.

Written Language Services

Translation is the replacement of written text from one language into the equivalent written text in another language. ESD maintains an agency contract for translation services. On-line translator software and programs are not yet reliable in providing accurate translations. These tools, therefore, should not be used to translate vital documents or to convey program information related to eligibility. These tools should only be used to make initial contact with an

LEP individual to determine what type of service they need, what language they speak, and to let them know services will be provided in their preferred language.

Determining Which Documents to Translate

In an effort to provide meaningful access to LEP individuals, ESD divisions will identify "vital" documents in their programs and services based on:

- The importance of the program, information, encounter, or service provided.
- The consequence to the LEP individual if the information in question is not provided accurately or in a timely manner.

These documents should be translated into appropriate languages when there is enough need. See the "Assessing Language Access Needs" section above. Divisions should review program documents on an ongoing basis to determine if the documents should be considered "vital" and therefore translated.

For documents that are not identified as vital, or are not translated because there is not enough need, ESD will inform LEP customers where they may obtain an oral interpretation of the document.

USDOL considers the following as examples of vital documents: applications; consent and complaint forms; notices of rights and responsibilities; notices advising LEP individuals of their rights under this part, including the availability of free language assistance; rulebooks; written tests that do not assess English language competency, but rather assess competency for a particular license, job, or skill for which English proficiency is not required; and letters or notices that require a response from the beneficiary or applicant, participant, or employee.

Programs will provide vital documents on the ESD website in Spanish as well as English. Locally, sites should consider translations of flyers, calendars, and other documents into identified languages. As an example, ESD provides in Spanish an online application for initial Unemployment Insurance benefits, an application for filing of continued claims, general Unemployment Insurance benefit information and forms, and instructions and procedures on filing an appeal.

English as a Second Language (ESL) Programs

ESL programs provide the study of the English language by individuals with different native languages. ESL programs provide long term positive impacts. However, ESL programs do not take the place of ESD's obligation to provide language services to LEP individuals, and customers are not required to learn English to receive services or participate in programs administered by ESD.

Providing Notice

To the Public

ESD will inform LEP customers that interpretation and translation services are available free of charge upon request. ESD ensures that programs convey in appropriate languages how an individual may learn about, participate in, and/or access any aid, benefit, service, or training. As ESD develops new methods for delivery of information or assistance, it is 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.

ESD includes a “Babel notice,” indicating in appropriate languages that language assistance is available, in all communications of vital information, such as hard copy letters or decisions or those communications posted on Web sites. A Babel notice means a short notice included in a document or electronic medium (e.g., Web site, “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.

Efforts to promote awareness of language services include:

- Posting the ESD LEP Policy and Language Access Plan on ESD’s website.
- Distributing posters, brochures, and pamphlets regarding programs and services within appropriate local LEP communities.
- Including the WIOA Equal Opportunity tagline in communications to the public such as brochures, booklets, and electronic communications.
- Collaborating with community-based organizations and other stakeholders to inform LEP individuals of programs and activities.
- Providing notices in language-specific local newspapers.
- Airing notices in language-specific radio and television stations.
- Conducting presentations at schools and religious organizations.

Within local facilities, notices include:

- Using “I Speak” cards or other language identification measures.
- Posting signs in selected languages in intake areas and other entry points.
- Using telephone voice menus in appropriate languages.
- Recruiting to fill open vacancies using specific language skills.
- Providing WorkSource staff and partners with local service area LEP information and data.

Steps individuals should take to request language assistance

- Individuals should identify that they have LEP and what their preferred language is when registering or applying for services.
- Individuals should ask for interpretation or translation services, depending on their needs and the situation, when they encounter staff or are receiving services.

To Staff

ESD's EO Office will distribute the ESD LEP Policy and Language Access to each division and workforce development area and will post them on the agency's intranet. Staff will receive training as outlined in the "Staff Training" section below.

Staff Training

ESD staff who serve customers or members of the public should understand the contents of this plan and of their local plan when one exists. These employees should also be familiar with ESD Policy 0022 Providing Language Services to LEP Customers. ESD staff will be required to review the ESD LEP Policy and Language Access Plan annually.

Staff should know the following:

- Location and use of "I Speak" cards or other language identification measures in their unit for LEP individuals. Staff can download "I Speak" cards at the federal website www.LEP.gov.
- Location and use of their unit's procedures on obtaining interpreter and translation services which will be distributed at the division or office level.
- Location and contents of ESD Policy 0013 Discrimination Complaint Processing Procedures and WorkSource System Customer Concern and Complaint Resolution Policy and Handbook 1012.
- Contact information for their division's LEP Committee member and ESD's EO Office when technical assistance is needed.

The Local Workforce Development Board (LWDB) EO Officers train WorkSource staff every two years on how to serve customers with LEP. ESD staff who work in other programs such as UI or PFML will be trained every two years by ESD's EO Office or a division-level trainer.

Monitoring Compliance and Progress

The LEP Committee will review this plan every two years to determine if changes are needed and whether staff need to be updated. The committee will update statewide demographic data and resources relating to the LEP population every two years. Local staff should also update local language access plans to include current LEP populations in the service area and populations affected or encountered.

The ESD EO Officer monitors ESD programs and services for compliance with the nondiscrimination provisions of Section 188 of WIOA and Title VI of the Civil Rights Act of 1964, as amended, on an annual basis. The monitoring review includes an assessment of the provision of services to LEP individuals.

The Local Workforce Development Board (LWDB) EO Officers monitor their local WorkSource programs and services for compliance with the nondiscrimination provisions of Section 188 of

WIOA and Title VI of the Civil Rights Act of 1964, as amended, on an annual basis. The monitoring review includes an assessment of the provision of services to LEP individuals.

Complaints

Employment Security Department (ESD) provides equal opportunity in all aspects of employment and service delivery and does not discriminate on the basis of national origin, including limited English proficiency.

National origin discrimination includes treating individuals adversely because they (or their families or ancestors) are from a particular country or part of the world, because of ethnicity or accent (including physical, linguistic, and cultural characteristics closely associated with a national origin group), or because the staff perceives the individual to be of a certain national origin, even if they are not.

When customers say they would like to file a complaint for not receiving language services or receiving inadequate language services, ESD staff must provide the customer their rights to file a discrimination complaint with the local or agency EO Officer, the State-Level EO Officer or with the Director of the USDOL CRC. Equal Opportunity is the Law notice/poster.

ESD staff must notify the [ESD EO Officer or the LWDB EO Officer](#) immediately when LEP complaints are received. This type of complaint is usually considered a discrimination complaint based on national origin and is processed according to WorkSource System Customer Concern and Complaint Resolution Policy and Handbook 1012.

Information about filing a discrimination complaint is provided on the [intranet](#) for staff and on [ESD's external website](#) for customers.

Resources and References

29 CFR Part 38 – Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act of 2014.

29 CFR Part 31 – Nondiscrimination in Federally Assisted Programs of the Department of Labor – Effectuation of Title VI of the Civil Rights Act of 1964.

Federal Register, Volume 68, No. 103, Thursday, May 29, 2003: “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”

[U.S. Census American Community Survey](#)

Report to the Legislature: [Educating English Language Learners in Washing State 2010-11](#).

Migration Policy Institute, National Center on Immigration Integration Policy, "[Limited English Proficient Individuals in the United States: Linguistic Diversity at the County Level](#)".