



Illinois
Department of Commerce
& Economic Opportunity

OFFICE OF EMPLOYMENT & TRAINING

Bruce Rauner, Governor

WIOA NOTICE NO. 18-NOT-02

TO: Chief Elected Officials
Local Workforce Investment Board Chairpersons
Local Workforce Investment Board Staff
WIOA Fiscal Agents and Grant Recipients
WIOA Program Services Administrators
Illinois workNet[®] Operators
WIOA State Agency Partners
Other Interested Persons

SUBJECT: Limited English Proficiency and Preferred Language Data Collection

DATE: January 2, 2019

I. PURPOSE

To provide information to all Local Workforce Innovation Areas (LWIAs) on the updated data collection requirements for Limited English Proficiency (LEP) and Preferred Language under Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act (WIOA).

II. ISSUANCES AFFECTED

A. References:

Workforce Innovation and Opportunity Act of 2014, Public Law 113-128,
Section 188
Section 188 WIOA Nondiscrimination and Equal Opportunity Regulations (29
CFR Part 38) Final Rule (December 2, 2016)
USDOL Training and Employment Notice (TEN) No. 20-16, Announcing the
publication and effective date of the Section 188 WIOA Nondiscrimination
and Equal Opportunity Regulations (29 CFR Part 38) Final Rule in the
Federal Register (December 2, 2016)

B. Rescissions:

None

III. BACKGROUND

The State must comply fully and effectively with the nondiscrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act (WIOA) and 29 CFR Part 38.

The purpose of 29 CFR Part 38 is to implement the nondiscrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act (WIOA), which are contained in Section 188 of WIOA (29 U.S.C. 3248). Section 188 prohibits discrimination on the basis of race, color, religion, sex, national origin, 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. This part clarifies the application of the nondiscrimination and equal opportunity provisions of WIOA and provides uniform procedures for implementing them.

Subsection 38.41 describes the collection and maintenance of equal opportunity data and other information. It requires recipients to record the limited English proficiency (LEP) and preferred language of applicants who seek to participate in the workforce development system to help ensure they have the necessary information to serve individuals with LEP effectively.

The regulations clarify that discrimination based on national origin includes failing to provide language services to someone with LEP. As such, under the rule, recipients must take reasonable steps to ensure that individuals with LEP have meaningful access to aid, benefits, services, and training. These steps may include oral interpretation and written translation of both hard copy and electronic materials in non-English languages. This ensures that individuals with LEP are informed about or able to participate in covered programs or activities. In addition, the rule clarifies which documents are “vital” and thus must be translated into languages spoken by a significant number or portion of the population eligible to be served or likely to be encountered. Finally, an appendix to the LEP section of the rule describes promising practices to help recipients comply with their legal obligations and includes the components of a plan to facilitate meaningful access for individuals with LEP.

29 CFR 38.9(g)(1) states that with regard to vital information: 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. Written training materials offered or used within employment-related training programs as defined

under subsection 38.4(t) are excluded from these translation requirements. However, recipients must take reasonable steps to ensure meaningful access as stated in subsection 8.9(b).

Twelve languages have been identified as most currently prevalent by the U.S. Department of Labor's Civil Rights Center. The list may be adjusted in the future based on population changes. The current prevalent languages are:

- *Arabic
- *Chinese (traditional)
- *English
- *French
- *French Creole
- *Korean
- *Portuguese
- *Russian
- *Spanish
- *Tagalog
- *Vietnamese
- *Polish

Because the Methods of Administration will be replaced with the Nondiscrimination Plan which is due February 14, 2019, the Office of Employment and Training is not updating the WIOA ePolicy Section on Methods of Administration, Element 6 – Data and Information Collection. Instead this Notice will provide updated guidance until the Nondiscrimination Plan has been approved and replaces the Methods of Administration in its entirety.

IV. COMPONENTS

The Collection and Maintenance of Equal Opportunity Data and Other Information subsection (29 CFR part 38.41) notes that beginning on **January 3, 2019**, each recipient must also record the LEP and preferred language of each applicant, registrant, participant, and terminnee. Such information must be stored in a manner that ensures confidentiality and must be used only for the purposes of recordkeeping and reporting; determining eligibility, where appropriate, for WIOA Title I financially assisted programs or activities; determining the extent to which the recipient is operating its WIOA Title I financially assisted program or activity in a nondiscriminatory manner; or other use authorized by law.

The Illinois Workforce Development System (IWDS) has been modified to capture LEP data for recipients to be compliant with this mandate. Those customers who are LEP should answer "Yes" to the English Language Learner question. A new field was created to capture the preferred language on the Characteristics and Barriers screen on the WIOA application. If a customer states "Yes" to the English Language Learner question, the customer must select from a drop-down field that lists the twelve languages identified as those currently most prevalent in Illinois and an option to select "Other" so that a language not

on the list can be entered. If a customer does not consider themselves an English Language Learner and answers "No" to that question, they may still choose to select their preferred language because they may speak English proficiently, but may not be proficient in reading or writing it.

The printed WIOA IWDS application includes these changes.

V. ACTION REQUIRED

All LWIAs, recipients and subrecipients shall review this notice and distribute it to all appropriate individuals within the organization.

VI. INQUIRIES

Inquiries should be directed to DCEO, Miguel A. Calderon, (217) 524-2997 or Miguel.A.Calderon@illinois.gov.

VII. EFFECTIVE DATE

This notice is effective on January 3, 2019.

VIII. EXPIRATION DATE

This notice will remain in effect until amended or rescinded by the Office of Employment and Training.

Sincerely,

A handwritten signature in black ink, appearing to read "Julio Rodriguez", with a stylized flourish at the end.

Julio Rodriguez, Deputy Director
Office of Employment and Training

JR:ld