



Virginia Employment Commission
Effective Date: February 2021

VEC Limited English Policy

PURPOSE

The Virginia Employment Commission (VEC) is committed to ensuring equal access to services, programs, and activities for persons with Limited English Proficiency (LEP). It is the policy of the VEC to provide language translation services to LEP persons to enable such persons to have meaningful and equal access to the agency's program, activities, and services. Failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI of the Civil Rights Act of 1964. The purpose is to clarify the responsibilities of VEC and assist in fulfilling the responsibilities to limited English proficient (LEP) person pursuant to Title VI of the Civil Rights Acts of 1964 and implementing regulations.

This policy sets forth the agency's procedures for providing and ensuring that equal and meaningful access of LEP services is provided to all LEP persons seeking VEC services, activities, and programs.

REFERENCES

The following laws and guidance document define VEC's responsibility to provided language translation services:

1. Workforce Innovation and Opportunity Act (WIOA) July 22, 2014, it supersedes Workforce Investment Act of 1998, 29 U.S.C. § 3248, Nondiscrimination and its relevant implementing regulations:
 - a. 29 CFR Part 38.9 Discrimination prohibited based on national origin, including limited English proficiency.
 - b. 29 CFR Part 38 WIOA (Nondiscrimination and equal opportunity)
2. Title VI of Civil Rights Act of 1964- prohibited National Origin Discrimination affecting limited English proficient persons. Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federal funded programs and activities.
3. Federal Executive Order 13166- to improve access to services for persons with Limited English Proficiency (*order made by President Clinton on August 11, 2000*)

DEFINITIONS

1. Effective Communication- Communication sufficient to provide the LEP individual with substantially, the same level of access to services, programs, and benefits received by individuals who are not LEP. (*For example, staff must take reasonable steps to ensure that communication with an LEP individual is as effective as communication with others when providing similar programs, benefits, and services.*)
2. Interpretation – The act of listening to a communication in one language and orally converting it to another language while retaining the same meaning.
3. Language Assistance Services- oral and written language services needed to assist LEP individuals to communicate effectively with staff, and to provide LEP individuals with meaningful access to, and an equal opportunity to participate fully in, the services, benefits, activities, or other programs administered by the agency.
4. LEP Four Factor Analysis- refers to the responsibilities of the VEC to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors:
 - a. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
 - b. The frequency with which LEP individuals come in contact with the program;
 - c. The nature and importance of the program, activity, or service provided by the program to people's lives; and
 - d. The resources available to the grantee/VEC, or subsidiaries, and costs.
5. Limited English Proficient (LEP) Individuals – individuals who do not speak English as their primary language and have a limited ability to read, write, speak, and/or understand English. LEP individuals 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*).
6. 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.
7. Primary Language- An individual's primary language is the language in which an individual most effectively communicates.

8. Program, Service, Benefit, or Activity – The term applies to the primary functions of all of the operations of the agency’s programs.
9. Qualified Translator or Interpreter- An in-house or contracted translator or interpreter who demonstrates his/her competence to interpret or translate through court certification or is authorized to do so by contract with the agency.
10. Target language and source language – The target language refers to the language that is being translated into, and the source language is what is being translated from.
11. Translation- The replacement of a word, phrase, or text in one language with an equivalent-meaning word, phrase, or text in another language.
12. Vital Document – Paper or electronic written material that contains information that is critical for accessing the agency’s programs, services, benefits, or activities; directly and substantially related to application material, eligibility information concerning change of benefits, documentation requiring the constituent to respond, as well as documentation concerning the rights and responsibilities of the LEP individual.

FACTS

1. LEP individuals may be entitled language assistance with respect to a particular type of service, benefit, or encounter.
2. The VEC must provide adequate notice to LEP individuals of the existence of interpretation and translation services and that these language assistance services are available free of charge.
3. The VEC shall not require an LEP individual to provide his or her own interpreter.
 - a. An LEP individual has the right to bring a companion who is able to translate for them but is in no way obligated to do so
 - b. A minor may not be used as an interpreter or translator for LEP services
4. The VEC and affiliates must include 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.
5. Once the VEC becomes aware of the non-English preferred language of an LEP beneficiary, participant, or applicant for aid, benefit, service or training, the VEC **must** convey vital information in that language.
6. Any language assistance services, whether oral interpretation or written translation, must be accurate, provided in a timely manner and free of charge.
7. All training programs offered by the VEC will include training material that is accessible and intelligible to the LEP individual.

PROCEDURES FOR PROCESSING LANGUAGE TRANSLATION

1. Translating Vital Documents- It is the policy of the VEC to prioritize translation of various vital documents. Classification of a document as “vital” depends upon the importance of the programs, information, encounter, or services involved, and/or the consequence to the LEP individual if the information in question is not provided in an accurate or timely manner. The determination of what documents are considered “vital” is left to the discretion of program managers, which are in the best position to evaluate their delivery of service. Vital documents must be made available upon request in a format that is intelligible to the LEP individual.
2. Translating the Agency’s Web Content- Program Manager will take reasonable steps to translate public website content and electronic documents that contain vital information about agency programs, benefits, and/or services. The Program Manager will identify the appropriate languages for translation and determine which electronic documents contain vital information. Translation of web content may include web pages that contain important information intended for the public, information about how to file a complaint, information about how to access services, information about how to inform LEP persons regarding their rights under the law. These translations will be made available in a hard copy, translated orally, as well as electronic form when upon request.
3. Tracking and Reporting – Each program manager will collect data regarding its specific program and provide that data to the Language Access Coordinator (LAC) at least biannually, so that the LAC can assess the effectiveness of VEC’s language assistance services. LAC will identify the data to be collected, which may include the number of cases, matters, or outreach initiatives in which language assistance services were provided; the primary languages of communication with the LEP persons; the cost of any language assistance services provided; and the type of language assistance provided during a case or matter, if any.
4. Staff Training – Agency staff must know how and when to use language assistance services. For policies and procedures to be effective, managers should make reasonable efforts to ensure those new and existing staff members periodically receive training on the content of the language access policy; identifying language needs; and, providing language assistance services. The LAC will develop a basic language access tool that may be used to train staff who may interact with LEP individuals, or whose job is to arrange for language support services, and managers of such staff. The LAC will make this training available. The LAC will develop and review training options and make further recommendations as appropriate.

Reasonable steps to ensure that relevant staff members receive training will include, but not limited to:

- a. Identifying the language needs of an LEP individual;
 - i. Due to cultural sensitivity it is imperative not to assume that any individual is LEP. It must be with the clients expressed permission or request that the appropriate Language Access Service be administered.
 - b. Working with an interpreter in person or on the telephone;
 - i. i.e. Addressing the interpreter as *interpreter* when required instead of you or he/she
 - c. Requesting documents for translation;
 - d. Accessing and providing language assistance services through the vendor or contractor;
 - e. Reporting and tracking the use of languages assistance services; and
 - f. Tips on providing effective assistance to LEP individuals.
5. Human Resources – when considering human resources and hiring policies, each program manager should assess the extent to which language proficiency in particular languages other than English is necessary for positions or to fulfill the VEC’s mission. Upon assessment of such language needs, multilingual staff within the department may not have interaction with LEP individuals outside of interdepartmental interactions unless qualified and credentialed to do so.
6. Notification of the Availability of Language Assistance Services – Each program manager should make reasonable steps to notify the public about its LEP policies and how to access language assistance services. Program managers should determine what information should be provided in English and in appropriate non-English languages using, websites, translated documents, and community-focused outreach. Program managers will utilize other organizations that have significant contact with LEP persons, such as schools, faith-based organizations, community groups, and groups working with new immigrants, as they can provide important inputs into the language access planning process and can often assist in identifying populations for who outreach is needed and who would benefit from the VEC programs and activities where language services are provided.
7. Performance Measurement and Evaluation – Program managers must periodically reassess their LEP programs and, where appropriate, update their internal plans (*if any*) to ensure that the scope and nature of language assistance services provided reflect updated information relevant LEP populations, language assistance needs, changes in technology, and departmental experience, under the Plan. Each program manager should make reasonable efforts to ensure that its language translation services, directory of translated documents, signs, and web-based services meet current language needs. At the beginning of each program year, the LAC will assess the effectiveness of the program managers language assistance services by:

- a. Conducting an inventory of languages most frequently encountered;
- b. Identify the primary method of contact with the agency for the communication with LEP individual (*whether telephonic, in person, correspondence, web-based etc.*)
- c. Reviewing the programs and activities for language accessibility;
- d. Reviewing plans and protocols;
- e. Reviewing the annual cost of translation and interpreter services; and
- f. Consulting with internal and external stakeholders.

FILING A COMPLAINT

Any LEP individual has a right to file a complaint against the agency where he/she believes that the agency did not provide necessary LEP services as appropriate. These complaints include those available under Title VI of the Civil Rights Act of 1964.

- 1. All complaints, alleging a violation under Title VI will be handled by the Human Relations Manager.
- 2. The Human Relations Manager will take appropriate steps to resolve all complaints in accordance with the agency’s discrimination procedures. The complaint must be filed within 180 calendar days from the date of the alleged violation.
- 3. The Human Relations Manager will maintain a database tracking all complaints and requests for language services and their resolution. The database will include the following items:
 - a. Source of complaint or request including relevant contact information
 - b. Nature of complaint request
 - c. Date complaint/request received
 - d. Date complaint/request resolved
 - e. Manner of resolution
 - f. Comments
- 4. The LEP person can file their complaint with the Virginia Employment Commission at the address below. If the LEP files a complaint with the VEC, they must wait until the VEC issues a decision or until 90 calendar days have passed, whichever is sooner, before filing with Civil Rights Center. If the employee/applicant wishes to file a complaint with CRC after receiving VEC’s decision, the employee/applicant must file with CRC within 30 calendar days of when VEC’s decision is issued.

Virginia Employment Commission
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- 5. The LEP person can file their complaint with the U.S. Department of Labor, Civil Rights Center, pursuant to 29CFR Part 38 by contacting:

The Director, Civil Rights Center
 U.S. Department of Labor
 200 Constitution Avenue, NW Room N4123
 Washington, DC 20210
www.dol.gov/crc