

LIMITED ENGLISH PROFICIENCY (LEP) PLAN

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An Equal Opportunity Employer and Service Provider

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Purpose of the Plan

The purpose of this plan is to ensure that the Department of Employment and Economic Development (DEED) communicates effectively with limited English proficient (LEP) individuals so that DEED customers have meaningful access to program information and services.

DEED is committed to the Limited English Proficiency Plan (LEP) as a timely and appropriate response to meeting the needs of our customers and Minnesota businesses. The plan is also consistent with federal requirements. All agencies that receive federal financial assistance must take adequate steps to ensure that persons with limited English proficiency receive the language assistance necessary to allow them meaningful access to services free of charge.

Authority

- [Title VI of the Civil Rights Act of 1964](#) prohibits discrimination based on race, color, and national origin in programs and activities receiving federal financial assistance.
- [Executive Order 13166](#), *Improving Access to Services for Persons with Limited English Proficiency*, was issued in 2000. This Order directs Federal agencies to work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries
- [Department of Justice \(DOJ\)](#) Under DOJ regulations implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. (Title VI), recipients of federal financial assistance have a responsibility to ensure meaningful access to their programs and activities by persons with limited English proficiency (LEP). See 28 CFR 42.104(b)(2). For details, go to: http://searchjustice.usdoj.gov/search?q=LEP&sort=date%3AD%3A%3Ad1&output=xml_no_dtd&ie=iso-8859-1&oe=UTF-8&client=default_frontend&proxystylesheet=default_frontend&site=default_collection.
- [Department of Labor \(DOL\)](#) Civil Rights Center; Enforcement of Title VI of the Civil Rights Act of 1964; Policy Guidance to Federal Financial Assistance Recipients. Issued May 29, 2003. For details, go to: <http://www.dol.gov/oasam/regs/fedreg/notices/2003013125.htm>
- [Workforce Investment Act \(WIA\), Section 188](#), Nondiscrimination and Equal Opportunity and its implementing regulations. The Civil Rights Center (CRC), Department of Labor, is assigned monitoring and enforcement responsibilities for the nondiscrimination and equal opportunity provisions of WIA. For details, view Code of Federal Regulations 29, Part 37 at: [http://www.dol.gov/oasam/regs/cfr/29cfr37\(2001\).htm](http://www.dol.gov/oasam/regs/cfr/29cfr37(2001).htm)
- [The Minnesota Human Rights Act, Minnesota Statutes Chapter 363A](#) prohibits discrimination based on race or national origin in public service.

Definition of Terms

Effective communication – Effective communication occurs when DEED or DEED partner staff members have taken the necessary steps to make sure that a person with limited English proficiency (LEP) is given adequate information to understand the services and benefits available and receives the benefits for which he/she is eligible. Effective communication also means that a person with limited English proficiency is able to communicate the relevant circumstances of his/her situation to the provider.

Four-factor analysis – A flexible and fact-dependent standard that balances the following four factors: 1. The number or proportion of LEP persons served or encountered in the eligible service population; 2. the frequency with which LEP individuals come in contact with the program; 3. the nature and importance of the program, activity or service provided by the recipient; and 4. the resources available to the recipient and costs.

Interpretation - Interpretation is the oral or spoken transfer of a message from one language into another language.

Limited English Proficiency (LEP) - A person with limited English proficiency or “LEP” is not able to speak, read, write, or understand the English language well enough to allow him/her to interact effectively.

Meaningful access - Meaningful access to programs and services is the standard of access required of federally funded entities and their sub recipients to ensure meaningful access for people with limited English proficiency. Service providers must make available to applicants/recipients, at no cost to them, language assistance that results in accurate and effective communication.

Primary languages - Primary languages are the languages other than English that are most commonly spoken by customers. Currently there are eight primary languages identified: Cambodian, Croatian, Hmong, Laotian, Russian, Somali, Spanish and Vietnamese. These languages are based upon the demographic representation of the state of Minnesota.

Translation - Translation means the written transfer of a message from one language into another language.

Vital Documents or Information – Documents or information that is critical for accessing federally funded services or benefits or are documents required by law. Federal guidelines suggest the importance of the program, information, encounter, or service involved may control whether or not a document is vital. Consequences to a LEP person if the information is not provided accurately and in a timely manner should also be taken into consideration.

Meaningful Access Policy

No person will be denied access to any DEED program, activity, or service because he/ she does not speak English or communicates in English on a limited basis. DEED will foster effective communication between its staff and customers with LEP by making appropriate language assistance services available when needed. This will be done in a timely manner and at no cost to the customer.

A person has LEP when he/she is not able to speak, read, write, or understand the English language at a level that allows him/her to interact effectively with DEED and/or DEED partners.

This plan covers all programs or activities of recipients of federal financial assistance. This includes DEED and all Workforce system partners, local Workforce Investment Boards, grant recipients, WorkForce Centers, service providers, and sub recipients.

DEED staff will initiate an offer for language assistance to clients who have difficulty communicating in English. When clients ask for language assistance, staff must offer free interpretation and/or translation services in a language they understand, in a way that preserves confidentiality, and in a timely manner. Whenever possible, staff is encouraged to follow a customer's preference.

Recipients and sub recipients operate under the same WIA regulations as the State. The State has responsibility to guide and work with recipients and sub recipients to determine the extent of their responsibility.

Using an Interpreter or Translator

To provide effective services to persons with LEP, DEED will use competent interpreters. "Competency" requires that interpreters will have demonstrated proficiency in both English and the intended language; training that includes the skills and ethics of interpreting; fundamental knowledge in both languages of any specialized terms or concepts; and sensitivity to the customer's culture.

Because the skill of translating is very different from the skill of interpreting, and a person who is a competent interpreter may or may not be competent to translate, DEED obtains translation services only from vendors who have a master contract with the Department of Administration. Vendors who have a master contract were selected through an extensive Request for Proposal (RFP) process. These vendors must adhere to a code of conduct and proficiency standards

The Department of Administration maintains statewide master contracts with qualified vendors of spoken language interpreter services. All state agencies and Cooperative Purchase Venture (CPV) members can use these contracted vendors. The vendors offer in-person, videoconferencing, and telephone interpreting. Availability and rates vary by vendor and the urgency of the request. To access the list of contracted vendors of spoken language interpreter services, visit the Department of Administration's Web site at: [http://www.mmd.admin.state.mn.us/pdf/s-885\(5\).pdf](http://www.mmd.admin.state.mn.us/pdf/s-885(5).pdf)

If the intention is to utilize the same vendor on multiple occasions, contact DEED's Fiscal Management at (651) 296-0254 for instructions.

The following requirements should be met when it is necessary to utilize a language interpreter to provide meaningful access to DEED's programs and services.

General requirements

1. Verify customer identity - before releasing case-specific information, DEED staff must verify the identity of the customer. Bilingual staff, Language Line Services staff, or vendors providing interpretation or translation services through contracts with the state may assist DEED staff in making verifications.
2. Document use of interpreter - DEED staff must always document in the customer's case file or keep appropriate records when an interpreter is used or when a customer makes use of another form of language assistance. Accurate documentation is especially important for direct service staff.

3. Do not use minor children - DEED staff must never use minor children as interpreters.
4. In-person interpreter services - if an interpreter is needed in-person, rather than over the telephone, staff will arrange to have an interpreter available at a time and place that is convenient for both the interpreter and the customer. Staff may arrange for in-person interpreting by contacting vendors directly.
5. Uncommon languages - when interpreter services are needed for a language not commonly spoken in Minnesota, use the interpreter resources listed below.

As much as possible, staff should use interpreter services in the following order of preference to reduce costs and speed service delivery:

DEED bilingual staff - DEED will use its best efforts to assign customers with LEP to bilingual staff who speaks their language.

DEED volunteer interpreters - When bilingual staff is not available, staff volunteers, with the permission of their supervisors, may assist other DEED employees with occasional interpretation services.

Telephone interpreter services - Language Line Services provides telephone interpretation in over 160 languages, 24 hours a day, seven days a week. Staff should use Language Line Services when bilingual staff is not available, when the language is one not commonly encountered at DEED, or when staff is not sure what language a customer speaks. Users of this interpreter service are charged on a per-minute basis.

DEED staff should familiarize themselves with the Language Line Services interpreting process before they actually use it. For a demonstration, call Language Line Services at 1-800-752-6096 or visit their Web site at: www.languageline.com

Use of Family, Friends, or Minor Children as Interpreters - A provider may expose itself to liability under Title VI and Section 188 if it requires, suggests, or encourages the use of friends, family member, or minor children as interpreters. Use of such persons could result, due to the close personal relationship, in a breach of confidentiality or a client's reluctance to disclose personal information critical to the client's situation. In addition, there may be a concern about the relative's competency in communication.

While staff may accommodate customers' wishes to have family or friends serve as interpreters whenever possible, staff must keep in mind issues of customer confidentiality and interpreter competency. Follow these rules:

- Protection of confidentiality and accuracy of interpretation should always be of highest concern, particularly if the interview concerns topics that may negatively affect eligibility for services.
- Always offer free interpreter services, as customer may not be aware of interpreter services.
- If a customer prefers to have a family member or friend serve as an interpreter, ask if the customer will allow a trained interpreter to listen in to ensure accuracy of interpretation. If the offer is refused, document the offer and refusal and accommodate the customer's wishes.
- Minor children should never be used as interpreters.

- DEED bilingual staff or contracted interpreters should be used in circumstances when a customer is giving information that may negatively affect his/her eligibility for services, including deadlines or certifications.
- Bilingual staff or contracted interpreters are preferred in situations where a customer must answer complicated or detailed questions. If family or friends handle the interpreting, follow-up calls or letters should be done by bilingual staff, Language Line Services staff, or contractors.
- If private information will be disclosed, please refer to the requirements of the [Minnesota Government Data Practices Act](#).

Emergencies

When programs or the assistance requested requires immediate action, DEED will take whatever steps necessary to ensure that all customers, including customers with LEP, have access to services or information within the appropriate time frames. For example, when a customer needs an interpreter or other language assistance services to obtain expedited program services, DEED's goal is to make the services accessible within the required time frame, whether that means using an interpreter or any other appropriate type of language assistance.

Translator Services

DEED's Translation Program

Vital documents or information

Vital documents or information should be a priority for translation, particularly when the four-factor analysis reveals a need for these documents to be translated.

Vital documents or information are those that are critical for accessing federally funded services or benefits or are documents required by law. They include, but are not necessarily limited to:

- Applications
- Consent and complaint forms
- Letters with eligibility or participation information
- Notices regarding reduction, denial, or termination of services/benefits and the right to appeal such actions
- Notices that require a response from participants
- Notices that offer free language assistance

Translation of documents

The U.S. Department of Labor (USDOL) has not provided direct guidance for recipients in determining when to provide written translations of vital documents. They have, however, referenced the U.S. Department of Justice's (DOJ) guidance, which designates the safe harbor for providing written translations.

According to the DOJ's safe harbor guidance, the following actions will be considered strong evidence of compliance with DEED's written-translation obligations:

(a) The recipient provides written translations of vital documents for each eligible language group with LEP that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

(b) If there are fewer than 50 persons in a language group that reaches the five percent trigger as described in the preceding paragraph, the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials at no cost.

Forms and other documents should be translated into any or all of the ten primary languages, as necessitated by the customer base, unless the translation of a certain document(s) would be burdensome enough to defeat the legitimate objectives of its program. DEED's nine primary languages include Arabic, Cambodian, Croatian, Hmong, Laotian, Oromo, Russian, Somali, Spanish, and Vietnamese.

Accessing translated materials

UI forms and documents can be accessed online at:

<http://www.uimn.org/uimn/search/?v%3Asources=mn-uimn-app&query=ui+forms>.

Level of Language Ability

Some LEP clients may not have the ability to read and understand written materials; 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 clients using the appropriate colloquial speech.

Assisting customers with various levels of literacy

DEED staff must assist customers with LEP who cannot read their preferred language to the same extent as they would assist English-speaking customers who cannot read English.

Contract translation services

The Department of Administration maintains a master contract of vendors of translation services for state agency use. The vendors offer document translation, audio and video production services, and other translation-related services. Services, rates, and turnaround time vary by vendor and the urgency of the request.

Notice of Right to Language Assistance

DEED staff must inform all customers with LEP of their right to timely and complimentary interpreter services.

"I speak" cards

"I speak" cards say in both English and the primary languages, "I need a (the appropriate language) interpreter." Staff may distribute the cards to customers with LEP so they can present the "I speak"

cards to signal their language and need for assistance. I speak cards can be downloaded from: <http://www.dol.gov/oasam/programs/crc/ISpeakCards.pdf>.

Catalogue of Languages with Notice of Right to Language Assistance

The Catalogue of Languages is comprised of a single “Notice of Right to Language Assistance” statement that has been translated into 70 of the languages most commonly spoken in Minnesota. This Catalogue was originally developed by the Minnesota Department of Human Services (DHS) in response to federal requirements to achieve Title VI language access compliance. The DHS Catalogue of Languages is available online at: <http://edocs.dhs.state.mn.us/lfserver/Legacy/DHS-4059-ENG>

The notice statements inform non- and limited-English speakers of their right to an interpreter once they enter a DEED setting. Initially, the Catalogue will be available in DEED’s nine primary languages: Cambodian, Croatian, Hmong, Laotian, Russian, Somali, Spanish and Vietnamese. In time, the Catalogue may be translated into other languages, depending on need. Once the Catalogue has been updated as DEED-specific, it will be made available to staff for download.

Data Privacy Protection

DEED employees and agents, including its contractors and partners, may, on occasion, as part of job-related responsibilities, obtain, use, or disclose private or confidential data, including protected health information (referred to below, collectively, as “protected information”).

Minimum necessary access to data

DEED and its contractors shall comply with the “minimum necessary” access and disclosure standards set forth in the Minnesota Data Practices Act. The dissemination of protected information is limited to “that necessary for the administration and management of programs specifically authorized by the legislature or local governing body or mandated by the federal government.” See [Minnesota Statutes, §13.05, subd. 3](#).

Duty to ensure proper handling of data

DEED and its contractors are responsible for training employees who are authorized to access and use the data collected under the terms and for the purposes specified in the contract. This responsibility includes ensuring that staff is properly trained regarding:

- The [Minnesota Government Data Practices Act](#) (MGDPA), Minnesota Statutes Chapter 13.
- Federal law and regulations that govern the use and disclosure of substance abuse treatment records, 42 USCS § 290dd-2 and 42 CFR § 2.1 to § 2.67.
- Any other applicable state and federal statutes, rules, and regulations affecting the collection, storage, use and dissemination of private or confidential information.

DEED and its partners and contractors will:

- Not use or further disclose the information other than as permitted or required by law.
- Use appropriate safeguards to prevent improper use or disclosure of the information by its employees and contractors.
- Appropriately respond to any known improper use or disclosure of protected information.

- Ensure that any agents, analysts, and others to whom it provides private or confidential data, agree to be bound by the same restrictions and conditions that apply to them with respect to such information.
- At termination of any contract, extend the protections of the contract to the information collected during the course of the contract..

Using family members or friends

When customers wish to use family members or friends as an interpreter, staff should follow the instructions listed below using bilingual staff, Language Line Services staff or contractors to obtain the required verifications:

- Verify the identity of the customer.
- Read and explain to the customer the purpose of consent for release of information form.
- Inform the customer of his/her right to have DEED staff, Language Line Services staff, or a contractor (when available) to interpret for the customer, if he/she desires.
- Assure the customer that family or friends can remain to provide support rather than interpretation if that is the customer's preference.

Emergency situations

Data privacy protection regulations permit DEED's employees and agents to release private information concerning a customer to third parties, including a family member or friend, in emergencies without the customer's written informed consent. It is an emergency if knowledge of the information is necessary to protect the health and safety of the customer or other persons. Staff should consult with a supervisor or manager when determining whether an emergency exists and would require releasing private customer data without the customer's written informed consent. If an emergency exists, staff should follow these instructions:

Procedure

- Use bilingual staff, or contracted interpreter services, to verify the identity of the customer and/or the person making the call.
- If the customer is available but refuses to give consent, inform the customer of his/her right to have DEED staff, or a contractor (when available) to interpret for the customer.
- If the customer is not available to give his/her consent, send a copy of a consent for release of information form to the customer for future use.
- Ask the customer if he or she desires to have a family member or friend serve as an interpreter. Give the customer the option to give or refuse consent.
- Explain to the customer the purpose of a consent for release of information form, even though the customer does not wish to sign the form, and make a notation in the customer's file, outlining the circumstances under which the information has been released.
- Prior to discussing private information concerning the customer, make a notation in the customer's file, outlining the circumstances under which the information has been released.

DEED LEP Administration

Collection of language preference information

In order to provide meaningful access to programs and services, it is essential that DEED be able to identify the language needs of the individuals and the communities it serves.

DEED will develop and incorporate data collection tools that gather information from applicants/recipients on their principal languages and their need for language assistance, including interpreter assistance. DEED will also attempt to update customer files that lack information about language needs and to confirm customers' primary languages at recertification and/or other renewal periods. The customer-specific language preference information will be available to DEED staff and related agencies so they may provide appropriate language assistance services.

DEED will develop standards for collecting language preference information that will be applied consistently to all current and future DEED systems. The systems include WorkForce One, Data Warehouse, and Minnesota Performs. In addition to informing staff about customers' language needs, the data will be used to provide language appropriate automated mailings to customers and to compile statistical summaries for planning purposes.

DEED staff training

DEED will distribute the LEP plan electronically and provide training and education so all staff will be aware of LEP policies and procedures.

LEP plan information will be incorporated into the DEED new employee orientation program, and LEP training will include information on the following topics:

- DEED's legal obligation to provide language assistance
- The substance of DEED's LEP plan, including its policies and procedures for accessing language assistance services

All staff in ongoing public contact positions and management staff will be provided more in-depth training that includes:

- Tips on working with in-person and telephone interpreters
- How to properly document information about a customer's language needs in the customer's case file or in DEED files where necessary
- Best practices
- DEED staff contacts for information regarding LEP

Monitoring

DEED will conduct an evaluation of its LEP program to determine its overall effectiveness. The DEED Office of Diversity and Equal Opportunity will lead the evaluation with the help of the monitoring staff of the Workforce Development unit who are familiar with Title VI language access requirements and the DEED LEP Plan. The evaluation will include:

- Current LEP populations in service delivery area
- Frequency of encounters with LEP language groups
- Whether existing assistance is meeting the needs of LEP person?
- Do staff members know and understand the LEP plan and how to implement it?
- Are current identified sources for assistance still available and viable?
- Assessment of available resources, including technological advances and sources of additional resources, and the costs imposed.

LEP Plan Distribution and Public Posting

Upon completion and endorsement by DEED management, the LEP plan will be:

- Distributed to all DEED and partner staff
- Available in DEED's Office of Diversity and Equal Opportunity for review
- Accessible on DEED's Intranet and on the department's external web site
- Posted for public review, although the text will be in English, the title, "Limited English Proficiency Plan," will be posted in customers' primary languages.
- Bilingual staff or interpreters will read the plan to customers upon request. Partner organizations can download the translations of the LEP Plan from DEED's web site.

Complaint Process

DEED has a complaint resolution procedure to resolve discrimination-related complaints. This complaint resolution procedure will be used to resolve LEP-related disputes and complaints.

Individuals who have a concern about discrimination may make a complaint to the manager with oversight of the area in which the alleged discrimination took place. If that manager is the person perceived to be engaging in unlawful discrimination, the customer may go to the next highest supervisor, manager, or director. Customers may also file a complaint directly with DEED's Office of Diversity and Equal Opportunity, Human Resources personnel, or the Commissioner.

DEED's Commissioner has designated the following staff to respond to discrimination-related complaints:

Kathy Mullarky
Equal Opportunity Program Director
Minnesota Department of Employment and Economic Development
332 Minnesota Street, Suite E200
St. Paul, MN 55101-1351
Voice (651) 259-7097
FAX (651) 296-8763
TTY/TDD (651) 296-3900

Susan Tulashie
Employment and Training Specialist Senior/Equal Opportunity Officer
Minnesota Department of Employment and Economic Development
332 Minnesota Street, Suite E200
St. Paul, MN 55101-1351
Voice (651) 259-7586
FAX (651) 296-4689
TTY/TDD (651) 296-3900

Other agencies:

Minnesota Department of Human Rights
190 East 5th Street, Suite 700
St. Paul, MN 55101
(651) 296-5663 (Voice)
(651) 296-1283 (TTY/TDD)
www.humanrights.state.mn.us

The U.S. Department of Labor
Civil Rights Center
Frances Perkins Building, 200 Constitution Ave., NW
Washington, DC 20210
(866) 4-USA-DOL (Voice)
1-877-889-5627 (TTY)

<http://www.dol.gov/oasam/programs/crc>

The U.S. Department of Justice
Civil Rights Division
Coordination & Review Section – NWB
950 Pennsylvania Avenue, NW
Washington, DC. 20530
(888) 848-5306 (voice and TDD)
Voice: 202-307-2222
TDD: 202-307-2678