



Virginia Employment Commission
Effective Date: October 15, 2018

ACCESSIBILITY POLICY

BACKGROUND

All recipients¹ of WIOA Title-I financial assistance must ensure nondiscrimination and equal opportunity in their provisions of WIOA Title I services. 29 CFR Section 38.13 defines the accessibility requirements in providing services to all individuals².

PURPOSE

This policy will provide guidance to ensure accessibility in the delivery of WIOA Title I services to all individuals.

POLICY

No individual may on the basis of race, color, religion, sex (including pregnancy, child birth and related medical conditions), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any WIOA Title I-financially assisted program or activity.

This policy will address three program areas where recipients must ensure that individuals have equal and meaningful access to WIOA Title I programs and services:

- I. National Origin and/or Limited English Proficiency
- II. Universal Access
- III. Disability

¹ Recipients includes State and Local WDBs, One-Stop operators, Service Providers, and sub recipients, as well as other types of individuals and entities.

² Individuals include participants, employees, applicants



I. National Origin and/or Limited English Proficiency

29 CFR §38.9 indicates that discrimination is prohibited based on national origin, including English proficiency and recipients must ensure that individuals have equal and meaningful access to WIOA Title I program and services.

In providing any aid, benefit or training under WIOA Title I-financially assisted program or activity, an individual must not be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination based on national origin, including 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 individual is perceived to be of a certain national origin.

Recipient must take reasonable steps to ensure meaningful access to each limited English proficient (LEP) individual served or encountered so that LEP individuals are effectively informed about and able to participate in the program or activity.

Reasonable steps generally may include, but are not limited to:

1. An assessment of an LEP individual to determine language assistance needs;
2. Providing oral interpretation or written translation of both hard copy and electronic materials in the appropriate non-English languages;
3. Ensuring that every program delivery avenue (e.g., electronic, in person, telephonic) conveys in the appropriate languages how an individual may effectively learn about, participate in, and/or access any aid, benefit, service, or training that the recipient provides;
4. Ensuring language assistance services providing oral interpretation or written translation are accurate, provided in a timely manner (e.g., provided at a place and time that ensures equal access and avoids delay or denial) and free of charge;
5. Providing notice of the existence of interpretation and translation services.

A recipient shall not require an LEP individual to provide their own interpreter and shall not rely on an LEP individual's minor child or adult family or friend(s) to interpret or facilitate communication, except:

1. An LEP individual's minor child or adult family or friend(s) may interpret or facilitate communication in emergency situations while awaiting a qualified interpreter; or
2. The accompanying adult (but not minor child) may interpret or facilitate communication when the information conveyed is of minimal importance to the services to be provided or when the LEP individual specifically requests that the accompanying adult provide



language assistance, the accompanying adult agrees to provide assistance, and reliance on that adult for such assistance is appropriate under the circumstances.

A record of the LEP individual's decision to use their own interpreter must be made and retained;

3. 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, a recipient may decide to provide its own, independent interpreter, even if an LEP individual wants to use their own interpreter as well.

With regard to vital information we must ensure that:

1. For languages spoken by a significant number or portion of the population eligible to be served, or likely to be encountered, 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 Web site.
Note: Written training materials offered or used within employment-related training programs as defined in 29 CFR §38.4 are excluded from these translation requirements. However, recipient must take reasonable steps to ensure meaningful access;
2. For languages not spoken by a significant number or portion of the population eligible to be served, or likely to be encountered, recipient must take reasonable steps to meet the specific 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;
3. Recipients must include a "Babel Notice," indicating in appropriate languages that language assistance is available, in all communications of vital information, such as hard copy of letters or decisions or those communications posted on Web sites;
4. Once the recipient become aware of the non-English preferred language of an LEP beneficiary, participant or applicant for aid, benefit, service or training, the recipient must convey vital information in that language;
5. Recipients are required to take reasonable steps to provide language assistance and should develop a written language access plan to ensure that LEP individuals have meaningful access.

II. Disability

"Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.



In compliance with Section 504 of the rehabilitation Act of 1973, as amended, and WIOA Section 188, 29 CFR Part 38, recipients must provide programmatic and physical accessibility to individuals with disabilities.

1. Recipients must not require an individual with a disability to bring another individual to interpret for him or her.
2. Recipients must not rely on a minor child to interpret or facilitate communicating except in an emergency involving an imminent threat to the safety or welfare of an individual or the public, where there is no interpreter available.
3. Recipients must not rely on an adult accompanying an individual with a disability or facilitate communication except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available.
4. Except where the individual with a disability specifically requests that an accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.

Programmatic Accessibility

All WIOA Title I-financially assisted programs and activities must be programmatically accessible, which includes:

1. Ensuring accessibility to their training programs, activities and services in the most integrated setting appropriate to the needs of qualified individuals with disabilities, including employment test or other selection criteria used by recipient that do not screen out individuals with disabilities, and training programs accessible to individuals with visual, hearing, or speech impairments;
2. Providing means for individuals with disabilities to receive information about availability of facilities accessible to them;
3. Making reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of WIOA Title I-financially assisted service, program, or activity;
4. Providing auxiliary aids, services and reasonable accommodations to qualified individuals with disabilities to enable them to perform duties of the job (e.g., special aids, modified work sites, or restructuring of jobs).

Physical Accessibility

All WIOA Title I-financially assisted programs and activities must be physically accessible:

1. No qualified individual with a disability may be excluded from participation in, or be denied the benefits of a recipient's service, program, or activity or be subjected to



discrimination by any recipient because the recipient's facilities are inaccessible or unusable by individuals with disabilities.

2. Facilities must meet ADA Standards for Accessible³ Design, including, but not limited to:
 - a. Designated parking for the disabled that is accessible to the building entrance, free of any barriers (e.g., steps, steep slopes, low spots in ground or pavement, bucked or uneven concrete walkways, loose gravel);
 - b. Signage at the primary entrance to each of their inaccessible facilities, directing individuals to a location at which they can obtain information about accessible facilities;
 - c. The international symbol for accessibility at each primary entrance of an accessible facility;
 - d. Building entrance doors that can be opened with one hand;
 - e. Accessible information at public counters or reception areas;
 - f. Facility elevators that are accessible from the primary entrance, meeting the above criteria;
 - g. Elevator control panel and entrance buttons with raised numbers and Braille symbols at an accessible height;
 - h. At least one accessible public telephone per floor;
 - i. Accessible meeting rooms with Braille symbols at an accessible height;
 - j. Facility restrooms that have at least one toilet stall with an accessible doorway. The stall should have grab bars and the toilet seat should be accessible for the disabled individual after the door is closed (access to the grab bars should not be obstructed by such things as toilet paper dispensers, seat cover dispensers, etc.);
 - k. Alternative methods to ensure that training, job structure, work schedule, work procedures, and work equipment are available to individuals with disabilities when the facilities are not physically accessible to individuals with disabilities.

All ADA technical requirements must be applied during the design, construction, and alteration of building and facilities.

Reasonable Accommodations and Reasonable Modifications

With regard to any aid, benefit, service, training, and employment, 29 CFR §38.8 states that recipient must do the following:

1. Provide reasonable accommodations to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship on business operations;

³ ADA Standards



2. Make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the WIOA Title I-financially assisted service, program, or activity.

29 CFR §38.4 defines “undue hardship” as significant difficulty or expense incurred by a recipient when considered in light of certain factors. These factors include, but are not limited to:

1. the nature and net cost of the accommodations needed;
2. overall financial resources of agency;
3. type of operation(s);
4. the number of persons aided, benefited, served, trained, or employed;
5. the impact on the ability of other participants to received aids, benefits, services, or training or of other employees to perform their duties;
6. the impact on the agency’s ability to carry out its business or mission.

The definition of “fundamental alteration” incorporates the concept of “undue financial and administrative burdens” in 29 CFR Part 38 and means:

1. A change in the essential nature of a program or activity, as defined in 29 CFR §38.4, including but not limited to an aid, service, benefit, or training; or
2. A cost that the recipient can demonstrate would result in an undue burden.

If a recipient believes that the proposed modification would cause undue hardship or would fundamentally alter the program, the recipient has the burden of proving that compliance would result in such hardship and alteration. The recipient must make the decision that the accommodation would cause hardship or result in such alteration only after considering all factors listed in the definitions of “undue hardship” and “fundamental alteration.” The decision⁴ must be accompanied by a written statement identifying the reason for reaching that conclusion. The recipient must provide a copy of the statement of reasons to the individual(s) who requested the accommodation.

If a requested accommodation would result in “undue hardship” or a modification would result in a “fundamental alteration”, the recipient must take any other action that would not result in such burden or alteration but would nevertheless ensure that individuals with disabilities receive the aid, benefits, services, training or employment provided by the recipient.

⁴ All denials must be approved by the Commissioner



Communications with Individuals with Disabilities and Auxiliary Aids or Services

Appropriate steps must be taken to ensure that communication with individual with disabilities such as beneficiaries, registrants, applicant, eligible applicants/registrants, participants, applicants for employment, employees, members of the public, and their companions⁵ are as effective as communications with others.

To afford individuals with disabilities an equal opportunity to participate in and enjoy the benefits of the WIOA Title I program or activity recipient must furnish appropriate auxiliary aids or services where necessary to ensure *effective communication*:

1. The recipient must give primary consideration to the requests of individuals with disabilities;
2. Appropriate auxiliary aids and services must be provided in accessible formats and in a timely manner;
3. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual and the context in which the communication is taking place.
4. A list of auxiliary aids and services is available in 29 CFR §38.4

With respect to information and communication technology, the final rule specifies that “when developing, procuring, maintaining, or using electronic and information technology, the recipient must utilize electronic and information technologies, applications, or adaptations which:

1. Incorporate accessibility features for individuals with disabilities;
2. Are consistent with modern accessibility standards such as Section 508 standards and W3C’s Web Content Accessibility Guidelines (WCAG) 2.0 AA: and
3. Provide individuals with disabilities access to, and use of, information, resources, programs, and activities that are fully accessible, or ensure that the opportunities and benefits provided by the electronic and information technologies are provided to individuals with disabilities in an equally effective and equally integrated manner.

Where a recipient communicates by telephone with beneficiaries, registrants, applicants, eligible applicants/registrants, participants, applicants for employment, employees, and/or members of the public, text telephones (TTYs) or equally effective telecommunications systems must be used to communicate with individuals who are deaf or hard of hearing or have speech impairments. When a recipient uses an automated-attendant system, including but not limited

⁵ “Companion” means a family member, friend, or associate of an individual seeking access to an aid, benefit, service, training program, or activity or a recipient, who along with such individual, is an appropriate person with whom the recipient should communicate.



to voice mail and messaging, or an interactive voice response system, for receiving and directing incoming telephone calls, that system must provide effective real-time communication with individuals using auxiliary aids and services, including TTY's and all forms of FCC-approved telecommunications relay systems, including Internet-based relay systems. A recipient must respond to telephone calls from a telecommunications relay service established under Title IV of the ADA in the same manner that it responds to other telephone calls.

Service Animals

Individuals with disabilities must be permitted to be accompanied by their service animals in all areas of the recipient's facilities where members of the public, participants, in services, programs or activities, beneficiaries, registrants, applicants, eligible applicants/registrants, applicants for employment and employees, or invitees, as relevant, are allowed to go.

Exceptions to this policy include:

1. Recipients may ask an individual to remove the service animal from the premise if;
 - a. The animal is out of control. The service animal must be on a harness, leash, or other tether, unless
 - the handler is unable because of a disability to use a harness, leash, or other tether, or
 - the use of harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means)
 - b. The animal is not housebroken.

2. If a recipient properly excludes a service animal because of the above-listed reasons, the individual with the disability must be given an opportunity to participate in the WIOA Title I-financially assisted service, program, or activity without having the service animal on the premises.

The recipient is not responsible for the care of supervision of the service animal.

The recipient must not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal:

1. A recipient may ask if the animal is required because of a disability and what work or task the animal has been trained to perform
2. A recipient cannot require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.
3. A recipient may not make these inquiries when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog



is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

III. Universal Access

As defined in 29 CFR Section 38 of the Federal register, recipient must take appropriate steps to ensure universal access to WIOA Title I-financially assisted programs and activities by doing the following:

1. Implementing an outreach and recruitment plan to solicit participation of all potentially WIOA Title I eligible reportable individuals in the entire locale;
2. Creating an outreach and recruitment plan that will reach specific target populations through media, schools, and community service groups;
3. Considering a pool of individuals for participation that includes members of both sexes, various racial and ethnic age groups, and individuals with disabilities;
4. Establishing a hiring and eligibility process that is accessible to qualified individuals with disabilities;
5. Utilizing facilities designed to provide reasonable access to individuals with disabilities in the following areas: training, job structure, work schedule, work procedure, work equipment and auxiliary aids accommodations.

In accordance with 29 CFR § 38.54, the State EO Officer monitors local areas for nondiscrimination and equal opportunity compliance as required by WIOA provisions and related regulations.

Any person, or any specific class of individuals, that has been or is being discriminated against on the basis of race, color, religion, sex (including pregnancy, child birth and related medical conditions), national origin (including, limited English proficiency), age, disability, political affiliation or belief, citizenship status, or participation in a WIOA Title I-financially assisted program or activity as prohibited by WIOA, Section 188, CFR 29 Part 38 of the regulations , may file a written complaint, either by him/herself or through a representative.

The complainant may file with either the State EO Officer or the Civil Rights Center (CRC) in Washington DC. Written complaints may be mailed or emailed to the State EO Officer or mailed to the CRC at the addresses listed below.

State-level EO Officer
Virginia Employment Commission
PO Box 1358
Richmond, Virginia 23219
Shirley.bray-sledge@vec.virginia.gov

The Director, Civil Rights Center
US Department of Labor
200 Constitution Ave., NW, Room N-4123
Washington, DC 20210
crceexternalcomplaints@dol.gov



Complaints must be filed within 180 calendar days of the alleged violation. More information is available at vec.virginia.gov or [US Department of Labor-EO Complaints](#).





VIRGINIA EMPLOYMENT COMMISSION
 ACKNOWLEDGEMENT CERTIFICATE
 FOR THE ACCESSIBILITY POLICY
 FOR ALL EMPLOYEES

This policy establishes the Accessibility Policy requirements and procedures for all employees of the Virginia Employment Commission (VEC) and applies to employment in, and involvement with, all agency operations. All VEC employees are required to read the Accessibility Policy and acknowledge, by signature of this certificate, their receipt of, awareness of, and agreement to abide by, this policy statement.

I certify that I have read the "Accessibility Policy" for the Virginia Employment Commission and acknowledge awareness of, and agreement to abide by, this policy statement. I understand that employees violating this policy are subject to disciplinary action in accordance with the Commonwealth's Standards of Conduct up to and including discharge and legal prosecution. I was provided the opportunity to ask questions concerning my responsibilities as an employee of the Virginia Employment Commission, and adequate answers to my questions were given. I further understand that this signed statement will be maintained by the VEC.

Printed Name: _____

Signature: _____

Office Name/Location: _____

Date: _____

