

AUTHORITY: The Michigan Works! Southwest Workforce Development Board is established under the Workforce Innovation and Opportunity Act of 2014, and subsequent changes. The Board is assigned the responsibility to set policy for the workforce investment system within the local area.

ORDER OF PRECEDENCE: Where any part of this policy shall be determined to conflict with any federal, state or local policy, the federal, state, and then local policy shall take precedence without affecting any other part or parts of this policy.

Nondiscrimination and Equal Opportunity

BACKGROUND Workforce Development Boards (WDB), Michigan Works! Agencies (MWA), and their service providers are required to have local, written policies and procedures that assure compliance with state and federal policies and regulations related to Nondiscrimination and Equal Opportunity (EO).

In compliance with state and federal policies, local policies and procedures must be established by Workforce Development Boards, Michigan Works! Agencies and their subrecipients that prohibit exclusion, provide universal access to all customers, including the availability of language assistance, so they may participate fully in the available workforce development services and program activities.

This includes promoting access, equity and respect for the differing customs, languages, abilities, and beliefs of people who seek workforce services and individuals who may have limited English proficiency (LEP).

SCOPE All workforce development programs, services and activities under the auspices of the Michigan Works! Southwest Workforce Development Board.

REFERENCES Workforce Innovation and Opportunity Act (WIOA) of 2014, Section 188

29 CFR Part 38 Implementation of the Nondiscrimination and Equal Opportunity Provisions of the WIOA and subsequent changes

Workforce Development Agency, State of Michigan, Policy Issuance 18-09 Nondiscrimination and Equal Opportunity Requirements and subsequent changes

Title VII of the Civil Rights Act of 1964, as amended and Michigan Civil Rights Act

WDB Policy 26 Revision 03 Reasonable Accommodations and Language Assistance

DEFINITIONS Integrated Settings: environments that maximize inclusiveness and enable individuals with Limited English Proficiency to interact and participate with others in programs and services.

Limited English Proficiency (LEP): An individual whose primary language for communication is not English and who has a limited ability to read, speak, write, and/or understand English. LEP individuals may be competent in English for certain types of communication (e.g. speaking or understanding) but may still be considered as LEP for other purposes (e.g. reading or writing).

POLICY

- I. Principles of Nondiscrimination and Equal Opportunity
 - A. The Michigan Works! Southwest Workforce Development Board (WDB), the Michigan Works! Agency (MWA) and its subrecipients, as recipients of state and federal funds, shall provide equal opportunity and shall not discriminate against any individual in the United States on the basis of race, color, religion, sex (including but not limited to, pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency [LEP]), age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in any WIOA Title I financially assisted program or activity, 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. [29 CFR Part 38.5]
 - B. Principles of nondiscrimination and equal opportunity shall apply to all entities (“recipients”) receiving financial assistance under Title I of the WIOA, One Stop partners, programs, and activities that are part of the One Stop delivery system, and the employment practices of recipients and/or One Stop partners in connection with programs and activities that are being conducted as part of the WIOA Title I or the One Stop delivery system. This includes, but is not limited to, agencies and programs listed in 29 CFR Part 38.2; and includes, but is not limited to, activities such as hiring, promotion, employment practices, program eligibility, training, placement, procurement decisions and the composition of committees, boards, or advisory groups formed to carry out workforce development initiatives.
 - C. The Michigan Works! Southwest Agency (MWA) shall designate an individual to serve as the MWA Equal Opportunity Officer to coordinate management of the MWA’s nondiscrimination and equal opportunity responsibilities and to serve as a technical resource.

The EO Officer and contact information for Michigan Works! Southwest is identified to be Jakki Bungart-Bibb, 222 S. Westnedge Ave, Kalamazoo, Michigan 49007. Telephone 269-385-0457 or 711 for Relay Center and TTY.

- II. Nondiscrimination and Equal Opportunity Policies
 - A. To meet nondiscrimination and equal opportunity responsibilities, the Michigan Works! Southwest Agency and its subrecipients shall establish policies and procedures to ensure that the following is achieved and in compliance with WIOA Section 188 and with 29 CFR Part 38:
 1. provide initial and on-going notice of compliance with state and federal nondiscrimination and equal opportunity policies and regulations;
 2. comply with requirements for posting nondiscrimination and equal opportunity notices;
 3. include nondiscrimination and equal opportunity policy statements on program documents and materials distributed to the public;
 - a. indicate that programs and activities are an “equal opportunity employer/program” and that “auxiliary aids and services are available upon request” in all materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or to the public at large;
 - b. prominently provide the telephone number of the text telephone or equally effective telecommunications system, such as a relay service, videophone, or captioned telephone used by the recipient. e.g. “Dial 711 for Relay Center

- and TTY” where such materials indicate that the recipient may be reached by voice telephone;
- c. ensure that each orientation with new participants, new employees, and/or the general public include the discussion of rights and responsibilities under the nondiscrimination and equal opportunity provision of the WIOA, including the right to file complaints of discrimination and retaliation;
 - d. ensure that every participant and employee receive the Equal Opportunity Notice and Grievance and Complaint procedures and that each sign an acknowledgement of receipt which is kept in their files;
4. ensure that communications with individuals with Limited English Proficiency (LEP) are as effective as communications with others;
 5. ensure that communications with individuals with disabilities are as effective as communications with others;
 6. operate workforce programs, services and activities in a manner that is both programmatically and physically accessible for individuals with disabilities;
 7. collect data, maintain records, and provide information and reports as needed to determine compliance with the nondiscrimination and equal opportunity requirements of workforce development programs;
 8. comply with all notification, complaint handling and file documentation requirements established by the state and follow the state’s uniform procedures for handling discrimination complaints;
 9. develop and publish local procedures for processing complaints under 29 CFR Part 38 and the WIOA Section 188;
 10. participate in periodic compliance, performance and specialized reviews to assure the maintenance and effectiveness of local nondiscriminatory and equal opportunity systems and practices including procedures for implementing corrective and remedial action for non-compliance.
 11. Participate in specialized Equal Opportunity training.
- III. Assurance of Nondiscrimination and Equal Opportunity in Contracts
- A. All contracts and other funding instruments awarding funds through Michigan Works! Southwest shall contain an assurance of nondiscrimination and equal opportunity in the provision of services, activities, employment practices, and in all terms, conditions and privileges of employment to ensure compliance with Section 188 of the WIOA and 29 CFR Part 38.
 1. This requirement includes contracts/agreements established for On-the-Job Training (OJT), Work Experience (WE) and other Wage Reimbursement positions.
 2. This requirement includes Memorandums of Understanding (MOUs).
 - B. Service levels shall be representative of the demographic characteristics and the geographic distribution of the eligible population within the Michigan Works! Southwest area or general population census data, whichever is most reflective of the population being served.
 - C. For applicable workforce development programs, the MWA shall track and review service levels for characteristics to include, but not limited to:
 1. Sex;
 2. Race/Ethnicity;
 3. Individuals with Limited English Proficiency (LEP);
 4. Preferred language;
 5. Age; and
 6. Disability status.
 - D. To address variances in service levels, service providers may be asked to provide affirmative outreach plans to the Michigan Works! Southwest’s EO Officer.

- IV. Limited English Proficiency and/or Requests for Language Assistance in Service Delivery and Operations.
- A. The Michigan Works! Southwest Agency and its subrecipients shall administer programs and services in integrated settings.
1. Separate programs for individuals with Limited English Proficiency (LEP) are permitted, where necessary, to ensure that the training, benefits and services provided to qualified individuals in need of language assistance are as effective as those provided to others.
 2. Separate programs cannot be used to restrict the participation of persons with LEP in general integrated programs.
 3. Individuals with LEP shall retain the right to participate in other available training if they elect to, and if they meet the selection criteria established for program participation.
 4. Where separate programming is offered, written documentation outlining the rationale used for establishing each separate program, activity or service shall be provided to the Michigan Works! Southwest's Equal Opportunity (EO) Officer for prior approval. All related documentation shall be retained on file by the EO Officer.
- B. All eligible persons who apply for programs, services or employment funded under sources from the Workforce Development Agency, State of Michigan and its successor organizations, shall be afforded accurate language assistance services, whether oral interpretation or written translation, in a timely manner and free of charge.
1. 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.
 2. The Michigan Works! Southwest Agency and its subrecipients shall take reasonable steps to ensure meaningful access to each LEP individual served or encountered so that the individuals are effectively informed about and/or able to participate in the program or activity.
 - a. Reasonable steps generally include, but are not limited to:
 - i. An assessment of a LEP individual to determine language assistance needs;
 - ii. Providing oral interpretation or written translation of both hard copy and electronic materials, in the appropriate non-English languages, to LEP individuals; and
 - iii. Outreach to LEP communities to improve service delivery in needed languages.
 - b. Reasonable steps to provide meaningful access to training programs may include, but are not limited to, providing:
 - i. Written training materials in appropriate non-English languages by written translation or by oral interpretation or summarization; and
 - ii. Oral training content in appropriate non-English languages through in-person interpretation or telephone interpretation.
 - c. Language assistance services shall comply with 29 CFR Part 38.9 (Discrimination prohibited based on national origin, including limited English proficiency).
 - d. Vital Information – For languages spoken by a significant number or portion of the population eligible to be served, or likely to be encountered, the Michigan Works! Southwest Agency and its subrecipients must translate vital information in written materials into these languages and make them readily available. Examples include, but are not limited to: applications,

- consent forms and complaint forms, notices of rights and responsibilities (EO is the Law Notice), notice of availability of free language assistance, letters or notices that require a response from the individual.
- e. Training Materials – Written training materials are excluded from translation requirements; however, recipients must take reasonable steps to ensure meaningful access. Some steps include but are not limited to: translation of materials upon request; and convey information orally through a certified interpreter.
 - C. The Michigan Works! Southwest Agency and its subrecipients shall develop and maintain written policies and/or procedures describing the process for participants, employees, applicants for employment and the general public to request language assistance for accessing programs, services and locations.
 - D. Local policies and procedures related to language translation services shall also reference the subrecipient’s willingness to make reasonable modifications to organizational policies, procedures and practices when requested unless the subrecipient can demonstrate that such modifications would result in a fundamental alteration in the nature of their program, activity or service.
 - E. Policies and/or procedures already in place in the Michigan Works! Southwest Agency or its subrecipients parent organizations may be used to satisfy the requirements of this policy provided those policies and procedures address the full range of language assistance as required by federal regulations including:
 - 1. Restructuring a job or training programs,
 - 2. Developing modified work or training schedules,
 - 3. Altering assessment/testing techniques which prevent the fair evaluation of skills,
 - 4. Providing for language translation services, and
 - 5. Making necessary alterations to the work or training site to ensure that the facilities are accessible to individuals requesting language assistance.
 - F. The Michigan Works! Southwest Agency and its subrecipients will ensure the dissemination of both public and internal notice of the language assistance process for individuals with LEP, including forms and/or instructions needed to initiate language assistance requests.
- V. Appealing Decisions for a Request for Language Assistance
- A. Individuals wishing to appeal a denial of a request for language assistance should use the Michigan Works! Southwest’s procedures as required in this policy.

INITIAL EFFECTIVE DATE

7/1/2007

APPROVED

Initial Policy	WDB Executive Committee	10/4/2007
Revision 01	WDB Executive Committee	12/3/2009
Revision 01:	WDB Executive Committee	10/15/2014 <i>(All WDB policies accepted to apply to all four counties)</i>
Revision 02	Workforce Development Board	5/20/2015
Revision 03	WDB Executive Committee	4/12/2019

EXPIRATION

Ongoing