

Note: the following information is provided as a sample nondiscrimination plan for TDEC subrecipients. Your organization should customize based on your policies and procedures, with areas noted in **[bold]** that must be updated. Highlighted text indicates instructions and should be removed prior to finalizing the plan and submitting to TDEC. It is your responsibility to verify that the information is accurate and applicable.

[Logo]

[Entity] Nondiscrimination Plan

[Date]

Overview

This plan identifies the federal laws governing nondiscriminatory practices applicable to **[Entity]** and outlines **[Entity]**'s responsibilities to prohibit the practice of discrimination under such federal laws. As a recipient or subrecipient of federal financial assistance, **[Entity]** must carry out certain federal requirements to comply with civil rights laws. All procedures and requirements contained within this plan are effective as of the date of the plan's enactment.

Nondiscrimination Notice

[Entity] does not discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex in the administration of its programs or activities and does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in or oppose actions protected/ prohibited by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights.

[Entity]'s nondiscrimination coordinator is responsible for coordination of compliance efforts and receipt of inquiries concerning nondiscrimination requirements implemented by 40 C.F.R. Parts 5 and 7 (Nondiscrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency), including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title IX of the Education Amendments of 1972; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 (hereinafter referred to collectively as the federal nondiscrimination laws).

If you have questions about this notice or any of **[Entity]**'s nondiscrimination programs, policies or procedures, you may contact our nondiscrimination coordinator:

[Name and title of nondiscrimination coordinator]
[Contact information nondiscrimination coordinator]

Language Access Plan

This sample Language Access Plan (LAP) is provided for use by TDEC grant applicants to meet federal regulations that require federally funded programs and subrecipients to ensure meaningful access for individuals with limited English proficiency (LEP). Failure to provide language assistance for LEP persons may constitute national origin discrimination. The sample should be modified to meet community needs and programs. Please also indicate if your organization utilizes any translation services and how this can be accessed by the population you serve.

Introduction

In compliance with Title VI of the Civil Rights Act of 1964, **[Entity]** has established the following Language Access Plan (LAP) to ensure that individuals with LEP may access the resources and services provided by **[Entity]**. LEP individuals are those individuals for who English is not their primary language and have a limited ability to speak, read, write, or understand English at a level that allows him/her to interact effectively with **[Entity]** services, programs, or activities. Any person who self-identifies as an LEP person will be given the benefit of the language protocols described in this LAP.

Subrecipients are required to perform an LEP analysis of their service area and develop a plan for providing language assistance and outreach to LEP populations. The following four-factor analysis was undertaken by **[Entity]** to determine what measures are necessary to provide meaningful access for LEP individuals:

1. The number and proportion of LEP persons served or likely to encountered in the eligible service population;
2. The frequency with which LEP persons come into contact with the agency;
3. The nature and importance of the program, activity, or service provided by the agency; and
4. The resources available and costs to the recipient.

Summary of Four-Factor Analysis

Factor 1: The number or proportion of LEP persons served or likely to encountered in the eligible service population:

[Entity] staff used data from the U.S. Census Bureau **[Year]** American Community Survey (suggest using data.census.gov and search language spoken at home for your community or service area) and determined that **[Number]** persons in **[Entity/ Entity Service Area]**, **[]** % of the population speak a language other than English. Of those **[]** persons, **[]** % have limited English proficiency; that is, they speak English less than "very well", comprising **[]** % of the overall population in the community. In **[Entity]**'s service area, of those persons with limited English proficiency, **[]** % speak Spanish, **[]** % speak Indo-European languages, and **[]** % speak Asian and Pacific Island Languages.

Factor 2: The frequency with which LEP individuals come into contact with the program, activity or service:

Staff reviewed the frequency with which **[Entity]** have, or could have, contact with LEP persons. This includes documenting phone inquiries or office visits. To date, **[Entity]** has had **[]** requests for interpreters and **[]** requests for translated program documents. **These numbers suggest that staff have had very little contact with LEP persons and there have been no issues arising of staff unable to provide services to LEP customers.** (modify if there is a large concentration of LEP individuals)

Factor 3: The nature and importance of the program, activity, or service provided by the program:

(modify if there is a large concentration of LEP individuals) If at any time a LEP individual requests translation services that are considered important such that denial or delay of access or services or information could have serious or even life-threatening implications, **[Entity]** will provide, upon request, services to assist the LEP population including translation of documents and interpretation services.

Factor 4: The resources and costs to **[Entity]**:

[Entity] reviewed its available resources that could be used for providing LEP assistance, which of its documents would be most valuable to be translated if the need should arise, and (describe actions taken, e.g. contacted local citizens that would be willing to provide voluntary Spanish translation if needed within a reasonable time period). Other language translation if needed would be provided through a telephone interpreter line for which **[Entity]** would pay a fee.

Language Access Services

[Entity] will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities, programs, and other benefits. The policy of **[Entity]** is to ensure meaningful communication with persons that experience LEP and their authorized representatives. All interpreters, translators, and other aids needed to comply with this policy shall be provided without cost to the person being served.

Identification of LEP Persons: We will work to identify LEP individuals in our normal encounters with the public by: (choose at least one, may include others not listed here)

- Offering a translation service for our website
- Assuming LEP if communication seems impaired
- Responding to individual requests for language assistance services
- Relying on self-identification by the non-English speaker or LEP individual
- Asking open-ended questions to determine language proficiency
- Using "I Speak" language identification cards or posters
- Collecting and recording primary language data from individuals when they first engage with our programs and services

Language Access Measures: The following language access measures are used by **[Entity]**: (include measures used by your community, the below are examples that may or may not apply)

- Bilingual staff who are qualified and/or certified to communicate in both English and LEP languages
- Contracts or formal arrangements with language assistance organizations providing interpretation or translation services. (include service name, contact information, and procedures to utilize, differentiating oral and written translation)
- Partnering with other departments, agencies, or community volunteers that provide services to LEP individuals
- Friends or family members; some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends will not be used unless specifically requested by the individual and after the LEP person has understood that an offer of an interpreter at no charge to the person has been made by [Entity]
- Children (e.g. persons under the age of 18) will not be used to interpret in order to ensure confidentiality of information and accurate communication

Providing Written Translations: Written language assistance may be necessary for documents, notices, or forms considered “vital documents” and will be translated and made available to the identified LEP community. Documents will be classified as “vital” by balancing the frequency of contact that LEP individuals have with the document, the importance and potential consequences associated with the document, and organizational resources.

Training Staff: All staff will receive training on the importance of providing meaningful information and services to LEP communities. This training will be provided as part of nondiscrimination training, annually and upon hire, and include information to ensure that staff know about LEP policies and procedures. Staff most likely to have contact with the public will be additionally trained to work effectively with in-person and telephonic interpreters.

Providing Notice to LEP Persons: **[Entity]** will do the following to ensure LEP individuals are informed regarding services available: (choose from below, or add for your community)

- Posting signs in entry areas or initial points of contact areas to assist LEP persons in accessing language services
- Developing outreach brochures and flyers in languages other than English that state available language services
- Working with community-based organizations and other stakeholders to inform LEP individuals about programs and activities, including the availability of language assistance services
- Using a telephone voicemail menu in **[common language encountered]**
- Translating vital notices on our website and offering the ability to translate our entire website
- Including notices in local newspapers and social media in languages other than English
- Providing notices on non-English-language radio and television stations
- Presentations and/or notices at schools and religious organizations

Monitoring and Updating the LAP: The nondiscrimination coordinator identified in this document is responsible for the overseeing the implementation of this plan, including maintaining and

updating this plan as needed. **[Entity]** will conduct a **[annual/biannual/other review period]** review of the language needs of our service area and individuals requiring services or seeking to participate in programs or activities to determine updates to the LAP.

Nondiscrimination Complaint Procedures

Nondiscrimination plans must include complaint procedures for how individuals or groups can file complaints of discrimination. These procedures should be published prominently in print and online and should clearly identify the nondiscrimination coordinator, including name and contact information, and explain the role of the nondiscrimination coordinator relative to the coordination and oversight of the complaint procedures. These procedures should:

- State who may file a complaint under the complaint procedures and describe the appropriate bases for filing a complaint;
- Describe which formal and informal processes are available, and the options for complainants in pursuing either;
- State that the preponderance of the evidence standard will be applied during the analysis of the complaint;
- Contain assurances that intimidation and retaliation are prohibited and that claims of intimidation and retaliation will be handled promptly and fairly pursuant to your complaint procedures in the same manner as other claims of discrimination;
- Assure the prompt and fair resolution of complaints which allege violation of federal nondiscrimination laws;
- State that written notice will be promptly provided about the outcome of the investigation, including whether discrimination is found and the description of the investigation process; and
- Be reviewed on an annual basis (for both in-print and online materials), and revised as necessary, to ensure prompt and fair resolution of discrimination complaints.

The procedures below are similar to how TDEC handles complaints, but will differ for each organization and should be modified accordingly. Please also indicate if your organization uses a specific complaint form. If so, that form should be accessible under your LAP.

As a subrecipient of federal funding, **[Entity]** is required to comply with federal nondiscrimination laws.¹ Any person or group alleging discrimination by **[Entity]** in access to services, programs, or activities; retaliation; or intimidation on the basis of race, color, national origin, disability, age, or sex may file a complaint with **[Entity]**. **[Entity]** encourages reporting of all allegations of discrimination, retaliation, or intimidation and will promptly and thoroughly investigate such reports. **[Entity]** is committed to the prompt and fair resolution of complaints which allege violations of federal nondiscrimination law, including claims of intimidation or

¹ Federal Nondiscrimination Laws: Collectively, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Section 13 of the Federal Water Pollution Control Act of 1972, Title IX of the Education Amendments of 1972; and EPA's implementing nondiscrimination regulations at 40 C.F.R. Parts 5 and 7.

retaliation, pursuant to the complaint procedures discussed below. Complaints can be filed by the individual alleging discrimination, retaliation, or intimidation or on behalf of another person or group.

How to File a Complaint of Discrimination, Retaliation, or Intimidation:

Complaints of discrimination, retaliation, or intimidation must be submitted in writing within 180 calendar days of the alleged offending act. Complaints should be submitted to the **[Entity]**'s nondiscrimination coordinator identified in this document.

Complaints should include the following information:

- The name, address, and telephone number of the complaining party. If you are filing on behalf of another person, include your name, address, telephone number and your relation to that person (for example: friend, attorney, parent, etc.).
- Name of the agency, department, and/or employee(s) your complaint concerns.
- Description of the alleged discrimination, retaliation, or intimidation, including the location and date when the offending act(s) occurred. Please include as much background information as possible about the alleged offending acts, including the basis (race, color, national origin, disability, age, or sex).
- The names and contact information of any witnesses, if known, that the investigating agency may contact for additional information to support or clarify your complaint.
- The signature of the complainant or the person filing on their behalf.

Where to Send a Complaint:

All complaints should be submitted by mail or e-mail in writing and signed to:

[Entity's nondiscrimination coordinator contact information, including mailing address, phone number, and email]

A complaint can also be filed with the Tennessee Human Resources Commission (THRC); the federal agency providing the funding for the program/activity alleged to have committed discrimination, retaliation, or intimidation; the state agency providing the funding or service for the program/activity alleged to have committed discrimination, retaliation, or intimidation; or the agency that performed the alleged discrimination, retaliation, or intimidation.

Processing a Complaint:

The nondiscrimination coordinator will review the complaint and may seek additional information from the complainant as needed. If the nondiscrimination coordinator requests additional information for the investigation and does not receive within **[thirty (30)]** days of the request, **[Entity]** may close the investigation. The complainant may also close the investigation at any time by submitting a written request.

[Entity] is committed to the prompt and fair resolution of complaints which allege violation of federal or state nondiscrimination laws and will investigate based on the information provided by the complainant and involved persons. The investigator may attempt to resolve the complaint informally through a mutually agreeable solution. Any informal resolutions must be described in writing and signed by the complainant. If the investigator finds that discrimination violating federal nondiscrimination laws has occurred and an informal resolution is not reached, **[Entity]** will recommend a course of action to organizational leadership.

The preponderance of the evidence standard will be applied during the analysis of the complaint, meaning that if the investigator believes there is more than a 50 percent chance that a claim is true, they will decide in favor of the claimant.

When the investigation is over, the investigator will provide a written summary of the process and findings in a memorandum and notify all parties of the final decision and subsequent action steps in writing. If complainant is not satisfied with the results of the investigation, the complainant may appeal to the appropriate federal agency.

[Entity] explicitly prohibits retaliation or intimidation against any individual because that individual has filed a complaint or has testified, assisted, or participated in any way in an investigation, proceeding, or hearing of any kind or has opposed any practice made unlawful under state or federal statutes or regulations. Any concern regarding retaliation or intimidation resulting from the filing of a complaint or participation in an investigation should be reported to the nondiscrimination coordinator.

Nondiscrimination Training Program

Please describe how and when agency staff is trained on nondiscrimination policies and procedures. To satisfy the training requirement in the nondiscrimination Plan, organizations may also upload materials that are used for training (e.g. PowerPoint slides) or a certificate of training completion from a state or federal agency. *Add in uploading form