SCOPE

The Idaho Department of Water Resources (IDWR) receives federal grant money from the Department of Homeland Security (DHS) for its Flood Plain Management and Safety of Dams programs. Federal law, enforced by DHS through its Office for Civil Rights and Civil Liberties (CRCL), requires recipients of DHS grants to comply with laws and regulations relating to nondiscrimination and nondiscriminatory use of federal funds. Entities receiving financial assistance must ensure they do not deny benefits or services, or otherwise discriminate based on race, color, national origin, disability, age, sex or religion. IDWR and IDWR employees comply with local, state, and federal civil rights laws and are committed to providing all IDWR programs and services, regardless of funding source, without discrimination in accordance with:

- Idaho Code § 67-5909, which prohibits discrimination on a basis of race, color, religion, sex, or national origin.
- Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin (including language).
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on disability.
- Title IX of the Education Amendments Act of 1972, which prohibits discrimination based on sex (including pregnancy, sexual orientation, and gender identity) in education programs or activities receiving federal financial assistance.
- Age Discrimination Act of 1975, which prohibits discrimination based on age.

PURPOSE

This policy establishes a framework for taking reasonable steps to ensure meaningful access to all federally funded and non-funded programs and services provided by IDWR for individuals with disabilities and those with limited English proficiency (LEP), and establishes procedures whereby IDWR will receive and investigate allegations of discrimination from federally funded program beneficiaries and other external customers and participants.

APPLICABILITY

This policy applies to all IDWR employees.
**Distribution of Policy and Training for Staff.** IDWR distributes new or updated IDWR policy and administrative memoranda to all IDWR staff and keeps electronic copies for download on IDWR’s internal and external websites. The Director’s Administrative Assistant keeps hard copies of IDWR policy and administrative memoranda at the State Office.

All IDWR employees receive training in discrimination and harassment avoidance upon first hire and on an annual basis. IDWR trains front line staff that interacts regularly with the public on how to access and use communication services for LEPs and persons with disabilities.

**DEFINITIONS**

For purposes of this policy, the following definitions apply. The most recently revised document for these definitions applies.

**Individual with a Disability:** A person who has a physical or mental impairment that substantially limits one or more major life activity, has a record of impairment, or is regarded as having such an impairment.

**Interpretation:** Oral communication occurring in real time, including sign language.

**Limited English Proficient (LEP) Person:** Individuals who do not speak English as their primary language and who have limited ability to read, write, speak, or understand English.

**Program Beneficiaries:** Individuals taking part in or receiving help from IDWR programs and services.

**Reasonable Accommodation (RA):** Any change, exception, or adjustment to a rule, policy, practice, or service that enables a qualified person with a disability to have an equal opportunity to use and enjoy a facility, program, service, or fulfill their program obligations.

**Translation:** Written communication translated from one language to another.

**PROCEDURES**

**Notifying Program Beneficiaries.** Notice to program beneficiaries of the process to request a reasonable accommodation (RA) or language services is available on IDWR’s website. IDWR also includes notice in service and program meeting invitations, meeting agendas, and notices for public comment. The following is language used to notify program beneficiaries of the process for requesting a RA or communication service:

IDWR will take reasonable measures to provide access to department services to individuals with disabilities and/or limited ability to speak, write, or understand English. Individuals may request reasonable accommodations and language interpretation or translation services to take part in IDWR programs, activities, and services. Requests must be made at least 5 business days in advance by contacting (insert full name, job title, and contact information of the IDWR employee facilitating the meeting).

**Accepting and Responding to Requests for RA.** To request a RA, individuals should contact IDWR’s Human Resources Officer (HR) or the Administrative or Legal Assistant (AA) who is facilitating the program, activity, or service. If the request is received by HR, HR should send the request to the appropriate Administrative or Legal Assistant who will receipt, review, and arrange for the RA.
Program beneficiaries who need an accommodation, should make their request at least 5 business days in advance of the meeting or program. The AA will acknowledge receipt of the request within 24 hours to the requestor. The RA request does not need to include words such as: “reasonable accommodation” or “disability”. A person other than the individual who the RA would help can make a request on behalf of the individual. In this case, HR or the AA should confirm the RA request with the program beneficiary.

A request for RA does not necessarily mean that IDWR is required to provide the accommodation. To decide if the RA should be granted, the AA will consult with the individual requesting the RA. IDWR will supply the RA if it is decided that:

1. The RA will be effective in allowing the individual to take part in the program or service in which they are seeking participation.
2. The RA is reasonable, or an equally effective alternative to the RA is available; and
3. Providing the individual with the RA would not fundamentally alter the nature of IDWR’s program or service or impose undue financial or administrative burdens on IDWR.

**Granting the RA.** The AA will notify the individual that IDWR will grant the RA. If the individual requires the approved RA on a continuous basis, they do not need to seek approval each time, but should inform the AA 72 hours in advance that they will take part in an IDWR program and request the RA. If the AA decides that more than 5 business days are needed to fulfill the RA, the individual making the request will be notified of the reason for delay and the approximate date on which a decision, or provision of the RA, is expected. If there is a delay in supplying an approved RA, the AA will decide if temporary measures are available to aid the individual in program participation. The AA will inform the individual that IDWR will supply a substitute RA on a temporary, interim basis. The AA will also identify an expected reasonable timeframe of when IDWR can provide the full RA to the individual.

**Denying the RA.** The AA will inform the requestor in writing of the denial within 24 hours of the decision. The denial should be written in plain language and clearly state the specific reason(s) for the denial, including why the accommodation would not be effective or why it would result in undue hardship for IDWR. The written notice of denial will also inform the individual of their right to file an appeal with IDWR. To appeal, the requestor will need to contact IDWR’s HR Officer.

**Record Keeping and Confidentiality.** The AA will record and track RA requests in a spreadsheet to monitor: the number and type of requests received annually, the number and type of alternate accommodations that were provided, and the number of RA denied with a summary of circumstances regarding the denial. The RA tracking spreadsheet is kept in a secure IDWR network drive folder. The AA shall not record or track the requestor’s personal identifiable information.

**Limited English Proficiency and Communication Services:**

**LEP Assessment.** The 2015 American Community Survey estimates the number of LEP individuals in Idaho is 60,061 (See Attachment 2.). Spanish is the second most common language in Idaho after English. Approximately 46,947 Spanish speakers in Idaho have limited English proficiency. As of 2019, CDC data shows 27%, or 1 in 4 Idahoans have a disability. Eight percent of Idahoans have a hearing disability and 4% have a vision disability.

IDWR will periodically evaluate Idaho’s demographic and LEP data to assess changes in demographics, types of services, or other needs that may require re-evaluation of this policy and its procedures.
Communication Services Provided by IDWR. IDWR contracts language and communication services with State approved organizations that offer interpretation or translation services. These services are free of charge for LEP individuals or those requesting a RA.

Responding to individuals with LEP, hearing disabilities, or speech disabilities. IDWR staff should promptly identify the language and communication needs of the LEP person. If necessary, staff can use a language identification card or “I Speak cards”, available at all IDWR office reception desks and on IDWR’s website (See Attachment 3). Staff will contact IDWR’s contracted language assistance organization, currently Language Link (See Attachment 1 for instructions on accessing Language Link). Staff may also use Telecommunications Relay Services (TRS) to communicate over the phone with individuals who have a hearing disability (See Attachment 1 for instructions on accessing TRS).

LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person should not interpret unless specifically requested by the LEP individual, and only after the LEP person has understood that IDWR contracts interpretation services at no charge to them. To ensure confidentiality of information and accurate communication, IDWR will not use minors (age 17 and under) or other program participants as interpreters.

Discrimination Complaints Process:

Filing a Complaint. If an individual believes IDWR or an IDWR staff member has discriminated in the execution of IDWR services in any way based on race, color, national origin (including language), disability, sex or age, the individual has the right to file a complaint with IDWR or the U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties (CRCL).

1. The individual must file their complaint with IDWR’s HR Officer within 180 days of the alleged discrimination. Complaints should include the complainant’s name, the nature of the complaint, the dates of the alleged discrimination, requested action, and contact information.

2. IDWR’s HR Officer will acknowledge receipt of the complaint within 10 business days. The HR Officer will review the complaint and may ask for additional information from the complainant as needed. If IDWR requests additional information and the information is not received within 30 business days, the case may be closed. IDWR may also close the case if the complainant no longer wishes to pursue their case.

3. The HR Officer will keep a complaint log with the name and contact information of the complainant, nature of the complaint, date of submission, and results of the investigation.

4. IDWR will notify the complainant if the complaint is outside the jurisdiction of IDWR, and if known, IDWR will inform the complainant of the name and contact information of the appropriate agency with jurisdiction.

Notice of IDWR’s Discrimination Complaints Process is available on IDWR’s website at: https://idwr.idaho.gov/non-discrimination/

Complaint Processing. If informal resolution of the complaint is not possible, IDWR will promptly investigate the complaint. IDWR’s goal is to address complaints within 30 days of receipt, though the time to carefully investigate complaints may be longer depending on the nature of the complaint and complexity of the issue.
**Preliminary Inquiry.** IDWR’s HR Officer will conduct a preliminary inquiry to determine the need for further investigation.

1. The HR Officer will notify the complainant that a preliminary inquiry is underway to determine the need for further investigation.
2. If IDWR’s preliminary inquiry indicates that an investigation is called for, the HR Specialist will notify the complainant and proceed with investigation.
3. If IDWR’s preliminary inquiry shows an investigation is not warranted, the complainant will be notified of the reasons why and factors considered.

**Complaint Investigation:**

1. The HR Officer will promptly investigate complaints and send results the investigation to the IDWR Director and Deputy Director for review.
2. The HR Office will notify the complainant of the results of the investigation, what actions will be or have been taken in response, and a timeline to request review or file an appeal.

IDWR will keep complaint records and investigative files for a minimum of three years.
ATTACHMENTS

Attachment 1. How to contact Language Link for interpretation or translation services.

Website: https://language.link/

Phone:

Step 1: Call 1-888-338-7394

Step 2: Enter account number 28433, followed by # sign

Step 3: Select 3rd party call (you are calling the LEP individual).
  - If a 3rd party call is selected, you will be prompted to enter and confirm the LEP individual’s domestic phone number.

Step 4: Select language by entering the corresponding number
  - If the language you need is not listed in the options, Enter “9” for all other languages.
  - If you need to speak with a customer service rep. prior to being connected with the interpreter, Enter “9”.

Step 5: Follow additional prompts
  - When prompted, enter IDWR pin: 4800
  - If employee forgets this pin #, the call will be deferred to the Director’s Administrative Assistant for the pin #. Using the pin # will help avoid mistake charges from parties outside IDWR.

Accessing Telecommunications Relay Service. TRS is a telephone service that allows persons with hearing or speech disabilities to place and receive telephone calls. TRS is available in all 50 states, the District of Columbia, Puerto Rico and the U.S. territories for local and/or long-distance calls. TRS providers – generally telephone companies – are compensated for the costs of providing TRS from either a state or a federal fund. There is no cost to the TRS user.

Reach TRS by dialing 711 from a telephone. The 711-dialing feature is now available nationwide to access non-Internet-based relay services such as Text to Voice (TTY) relay services, speech-to-speech (STS) relay services, voice carry over (VCO), and hearing carry over (HCO) relay services. For more information about different TRS and using 711, see the Council for the Deaf and Hard of Hearing resource webpage: https://cdhh.idaho.gov/resource-directory/trs/.
Attachment 2. State of Idaho LEP demographics by County.

Total Persons 5 Years and Over Who Speak a Language Other Than English at Home and Speak English Less Than "Very Well".

State of Idaho (ACS 2015)

**Total Persons 5 Years and Over Who Speak a Language Other Than English at Home and Speak English Less Than "Very Well".

Source: U.S. Census 2011-2015 American Community Survey Data
Table B16001

The estimates from the ACS are based on a sample survey and hence are subject to sampling error.

*Pie Charts represent Counties with the highest percent of LEP individuals by languages spoken.*

**Legend**
- **Other Countries**
- **State Boundaries**
- **COUNTIES - Total LEP for Less Than Very Well (ACS2015 5 YR)**
  - $\leq 1K$
  - $1K$ AND $\leq 5K$
  - $5K$ AND $\leq 10K$
  - $10K$ AND $\leq 25K$
  - $25K$ AND $\leq 75K$
  - $75K$
  - No LEP

**State of Idaho**

Total LEP (LVW) = 60,061
The above “I Speak” poster was retrieved on 05/09/22 from https://www.dhs.gov/blue-campaign/materials/posters-ispeak.