It is the law for this recipient of federal financial assistance to discriminate on the following bases:

- Against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and
- Against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA) or any participant in any South Dakota Department of Labor (SDDOL) program or activity, on the basis of the beneficiary’s citizenship status as a lawfully admitted immigrant authorized to work in the United States.

The recipient must not discriminate in any of the following areas:

- Deciding who will be admitted, or have access, to any SDDOL program or activity;
- Providing opportunities in, or treating any person with regard to, such a program or activity; or
- Making employment decisions in the administration of, or in connection with, such a program or activity.

If you think you have been subjected to discrimination under a SDDOL financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with:

Andrew Szilvasi, ES EO Officer
andrew.szilvasi@state.sd.us
or
Deb Halling, WIA EO Officer
deb.halling@state.sd.us
SD Department of Labor
700 Governors Drive
Pierre, SD 57501
605.773.3101

Dawn Williams, UI EO Officer
dawn.williams@state.sd.us
SD Department of Labor
420 S. Roosevelt Ave.
Aberdeen, SD 57401

Persons who are deaf, hard-of-hearing or speech-disabled may call Relay South Dakota at 711. If calling from outside South Dakota, call 800.877.1113. For Spanish language calls, use 877.981.9743.

After filing a complaint with the recipient, you should receive an answer, a written Notice of Final Action. If you do not receive the Notice or if you are dissatisfied with the decision or resolution, you may turn to the federal Civil Rights Center (CRC). There are several rules you will need to remember.

- You must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the CRC.
- If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you do not have to wait for the recipient to issue a Notice before filing a complaint with the CRC. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).
- If the recipient gave you a written Notice of Final Action on your complaint, but you are dissatisfied, you may file a complaint with the CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

The Director
Civil Rights Center (CRC)
US Department of Labor
200 Constitution Avenue NW
Room N-4123
Washington, DC 20210

Your workforce experts.
www.sdjobs.org

Please note: This document is awaiting final approval by the Civil Rights Center (CRC). Any and all content is subject to revision.
**How to reach an interpreter**

Place the non-English speaker on Conference Hold. Or if you are placing an outside call, access the interpreter first and then place the call to the non-English speaker.

To reach an interpreter, dial your special telephone access number. If possible, you may wish to program this number for speed dialing.

Press 1 for Spanish.

Press 2 for all other languages.

- Speak the name of the desired language clearly (e.g. “Arabic”, “Japanese”). Say only the language name – do not add any other words. The system will repeat your request and ask that you:
  - Press 1 to confirm the language.
  - If you don’t know the language, at the prompt, say “Help.” Your call will be transferred to a live representative.

Enter your 6-digit Client ID number on the telephone keypad.

Enter your Access Code followed by the pound sign (#) on the telephone keypad. You will be placed on hold while an interpreter is conferenced onto the call. Do not hang up.

When the interpreter joins the call, provide any additional instructions and explain which communication method you will be using. Pass the telephone handset back and forth, using a speakerphone, using an extension handset (via a splitter), or using Language Line**.

Add the non-English speaker to this line after you brief the interpreter.

After the interpreted conversation has ended, conclude the use of the service by saying “End of Call” to the Interpreter.

ou would in any conversation, confirm or clarify.

To think how often communication occurs when you are speaking English. Consider the potential for misunderstanding when you add another language. Be brief, avoid slang, jargon, acronyms or technical terms may not interpret well into other languages and cultures.

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**Language Line Services also offers Document Translation**

For more information contact us:
Phone: 1 888 765-3364 • Fax: 1 800 648-0170
Email: translation@languageline.com
Web: www.Languageline.com

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SD MOA Element 5 Documentation

Excerpt from ADA Title II Technical Assistance Manual

II-6.4000 Leased buildings. Public entities are encouraged, but not required, to lease accessible space. The availability of accessible private commercial space will steadily increase over time as the title III requirements for new construction and alterations take effect. Although a public entity is not required to lease accessible space, once it occupies a facility, it must provide access to all of the programs conducted in that space (see II-5.0000). Thus, the more accessible the space is to begin with, the easier and less costly it will be later on to make programs available to individuals with disabilities and to provide reasonable accommodations for employees who may need them.

II-5.0000 PROGRAM ACCESSIBILITY

Regulatory references: 28 CFR 35.149-35.150.

II-5.1000 General. A public entity may not deny the benefits of its programs, activities, and services to individuals with disabilities because its facilities are inaccessible. A public entity's services, programs, or activities, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. This standard, known as "program accessibility," applies to all existing facilities of a public entity. Public entities, however, are not necessarily required to make each of their existing facilities accessible.

ILLUSTRATION 1: When a city holds a public meeting in an existing building, it must provide ready access to, and use of, the meeting facilities to individuals with disabilities. The city is not required to make all areas in the building accessible, as long as the meeting room is accessible. Accessible telephones and bathrooms should also be provided where these services are available for use of meeting attendees.

ILLUSTRATION 2: D, a defendant in a civil suit, has a respiratory condition that prevents her from climbing steps. Civil suits are routinely heard in a courtroom on the second floor of the courthouse. The courthouse has no elevator or other means of access to the second floor. The public entity must relocate the proceedings to an accessible ground floor courtroom or take alternative steps, including moving the proceedings to another building, in order to allow D to participate in the civil suit.

ILLUSTRATION 3: A State provides ten rest areas approximately 50 miles apart along an interstate highway. Program accessibility requires that an accessible toilet room for each sex with at least one accessible stall, or a unisex bathroom, be provided at each rest area.
Is a public entity relieved of its obligation to make its programs accessible if no individual with a disability is known to live in a particular area? No. The absence of individuals with disabilities living in an area cannot be used as the test of whether programs and activities must be accessible.

ILLUSTRATION: A rural school district has only one elementary school and it is located in a one-room schoolhouse accessible only by steps. The school board asserts that there are no students in the district who use wheelchairs. Students, however, who currently do not have a disability may become individuals with disabilities through, for example, accidents or disease. In addition, persons other than students, such as parents and other school visitors, may be qualified individuals with disabilities who are entitled to participate in school programs. Consequently, the apparent lack of students with disabilities in a school district's service area does not excuse the school district from taking whatever appropriate steps are necessary to ensure that its programs, services, and activities are accessible to qualified individuals with disabilities.

Can back doors and freight elevators be used to satisfy the program accessibility requirement? Yes, but only as a last resort and only if such an arrangement provides accessibility comparable to that provided to persons without disabilities, who generally use front doors and passenger elevators. For example, a back door is acceptable if it is kept unlocked during the same hours the front door remains unlocked; the passageway to and from the floor is accessible, well-lit, and neat and clean; and the individual with a mobility impairment does not have to travel excessive distances or through nonpublic areas such as kitchens and storerooms to gain access. A freight elevator would be acceptable if it were upgraded so as to be usable by passengers generally and if the passageways leading to and from the elevator are well-lit and neat and clean.

Are there any limitations on the program accessibility requirement? Yes. A public entity does not have to take any action that it can demonstrate would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. This determination can only be made by the head of the public entity or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The determination that undue burdens would result must be based on all resources available for use in the program. If an action would result in such an alteration or such burdens, the public entity must take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.

II-5.2000 Methods for providing program accessibility. Public entities may achieve program accessibility by a number of methods. In many situations, providing access to facilities through structural methods, such as alteration of existing facilities and acquisition or construction of additional facilities, may be the most efficient method of providing program accessibility. The public entity
may, however, pursue alternatives to structural changes in order to achieve program accessibility. Nonstructural methods include acquisition or redesign of equipment, assignment of aides to beneficiaries, and provision of services at alternate accessible sites.

ILLUSTRATION 1: The office building housing a public welfare agency may only be entered by climbing a flight of stairs. If an individual with a mobility impairment seeks information about welfare benefits, the agency can provide the information in an accessible ground floor location or in another accessible building.

ILLUSTRATION 2: A public library's open stacks are located on upper floors having no elevator. As an alternative to installing a lift or elevator, library staff may retrieve books for patrons who use wheelchairs. The aides must be available during the operating hours of the library.

ILLUSTRATION 3: A public university that conducts a French course in an inaccessible building may relocate the course to a building that is readily accessible.

When choosing a method of providing program access, a public entity must give priority to the one that results in the most integrated setting appropriate to encourage interaction among all users, including individuals with disabilities.

ILLUSTRATION: A rural, one-room library has an entrance with several steps. The library can make its services accessible in several ways. It may construct a simple wooden ramp quickly and at relatively low cost. Alternatively, individuals with mobility impairments may be provided access to the library's services through a bookmobile, by special messenger service, through use of clerical aides, or by any other method that makes the resources of the library "readily accessible." Priority should be given, however, to constructing a ramp because that is the method that offers library services to individuals with disabilities and others in the same setting.

*Is carrying an individual with a disability considered an acceptable method of achieving program access? Generally, it is not. Carrying persons with mobility impairments to provide program accessibility is permitted in only two cases. First, when program accessibility in existing facilities can be achieved only through structural alterations (that is, physical changes to the facilities), carrying may serve as a temporary expedient until construction is completed. Second, carrying is permitted in manifestly exceptional cases if (a) carriers are formally instructed on the safest and least humiliating means of carrying and (b) the service is provided in a reliable manner. Carrying is contrary to the goal of providing accessible programs, which is to foster independence.*

*How is "program accessibility" under title II different than "readily achievable barrier removal" under title III? Unlike private entities under title III, public entities*
are not required to remove barriers from each facility, even if removal is readily achievable. A public entity must make its "programs" accessible. Physical changes to a building are required only when there is no other feasible way to make the program accessible.

In contrast, barriers must be removed from places of public accommodation under title III where such removal is "readily achievable," without regard to whether the public accommodation's services can be made accessible through other methods.