

SETTLEMENT AGREEMENT

(FEBRUARY 24, 2022)

This Settlement Agreement (“Agreement”) is made and entered into by and between Legal Aid Foundation of Los Angeles (“LAFLA”), Asian Americans Advancing Justice – Asian Law Caucus, California Rural Legal Assistance, Inc., Center for Workers’ Rights, and Legal Aid at Work (“Complainants”) on the one hand, and the California Employment Development Department (“EDD” or “Respondent”), on the other hand (collectively, the “parties”) on this 24th day of February, 2022.

This Agreement is entered into in response to a July 28, 2020 Request to Investigate Discrimination filed by LAFLA with the California Department of Fair Employment and Housing (DFEH) and complaint issued by DFEH (DFEH Case Number 202008-10918610), alleging past and ongoing violations of language access laws, including California Government Code 11135, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), and the Workforce Innovation and Opportunity Act regulations (29 C.F.R. 38 *et seq.*) (collectively, “Complaint”). As set forth in paragraph (6)(q) below, this Agreement is intended to resolve in full the Complaint and Petition for Writ of Mandate (the Petition)¹ to be filed by Complainants, on their own behalf and/or as counsel to one or more petitioners, following execution of this Agreement, which asserts claims that arose out of the same facts and circumstances as the Complaint. The Complaint and Petition further allege that claimants with disabilities and with limited English proficiency (LEP) are unable to meaningfully access EDD benefits and services for Unemployment Insurance (UI), Paid Family Leave (PFL), and Disability Insurance (DI), due to language and technological barriers. The Complaint was referred to DFEH’s mediation program. Thereafter, the Parties negotiated this Agreement, with the assistance of a DFEH mediator.

1. The parties understand and agree that this Agreement does not constitute an admission of liability or wrongdoing on the part of Respondent, or that the facts and circumstances alleged in the Complaint or the Petition are true.
2. The parties further understand and agree that the confidentiality of the mediation process leading up to this Agreement shall be maintained in full accordance with the provisions of Evidence Code section 1115, *et seq.*, and as provided in the DFEH’s Agreement to Mediate and Confidentiality Agreement signed by the parties. Nothing in this Agreement, however, shall be considered confidential by any of the parties.
3. In consideration of Respondent’s promises contained in paragraph 6 of this Agreement, the Complainants agree that during the Compliance Period, and excepting the Petition

¹ Complainants who are also petitioners in the Petition are LAFLA, Asian Law Caucus, and CWR. Additionally, an individual, Silvia Hernandez, who is represented by CRLA and LAAW, and the entity Chinese for Affirmative Action (CAA), which is represented by Asian Law Caucus, are named as petitioners.

and any actions to enforce the terms of this Agreement, which actions may be brought only after exhaustion of the Dispute Resolution provisions described herein, they will not institute nor cause to be instituted any action in state or federal court, or before any other local, state, or federal governmental entity, regarding the alleged unlawful systemic acts and/or omissions of Respondent (or any of Respondent's agents, employees, or representatives) with respect to the claims asserted in the Complaint or the Petition. Subject to the Meet and Confer obligation under the Dispute Resolution provisions herein, nothing in this Agreement is intended to limit Complainants' legal representation of other persons with claims of discrimination or violation of other rights associated with an individual claim for unemployment insurance benefits.

- (a) This Agreement does not address or resolve those aspects of the Complaint concerning other benefits programs administered by EDD, such as the State Disability Insurance (SDI) program or Paid Family Leave (PFL) program.
 - (b) Subject to the Meet and Confer obligation under the Dispute Resolution provisions herein, Complainants shall not be precluded from seeking individual relief for UI Claimants who are unable to access EDD services due to a language barrier, as protected by existing or future legal mandates. If the Parties are unable to resolve a dispute through the Meet and Confer process described herein, Complainants may attempt to resolve the matter through the Mediation process described herein, or pursue individual relief for the claimant in state or federal court, or before any other local, state, or federal governmental entity.
 - (c) In further consideration of the promises of the Respondent contained in paragraph 6 of this Agreement, and while the parties continue to attempt to resolve their outstanding disputes on remaining issues alleged in the Complaint, the Complainants shall forbear from filing a lawsuit against Respondent alleging any language access claims related to Respondent's administration of the SDI and PFL programs arising from the actions, activities, or omissions that gave rise to the Complaint. Said forbearance period shall terminate no sooner than eighteen (18) months from the date this Agreement is executed, unless the Parties mutually agree in writing to reduce or extend the time for negotiation.
 - i. Subject to the Meet and Confer obligation under the Dispute Resolution provisions herein, Complainants shall not be precluded from seeking relief for individual DI or PFL claimants who are unable to access EDD services due to a language barrier, as protected by existing or future legal mandates. If the Parties are unable to resolve a dispute through the Meet and Confer process described herein, Complainants may attempt to resolve the matter through the mediation process described herein, or pursue individual relief for the claimant in state or federal court, or before any other local, state, or federal governmental entity.
4. The Complainants and Respondent agree that, upon signing this Agreement, the above-described DFEH Complaint will be administratively closed. Accordingly, Complainants will send a letter confirming closure of the Complaint via private, confidential e-mail to the DFEH Dispute Resolution Division, at drdonlinerequests@dfeh.ca.gov.

5. Except as provided in paragraph 3, Complainants acknowledge that the consideration identified in paragraph 6 of this Agreement is made in full and complete satisfaction of any and all present and prospective disability and language access claims, demands, actions, causes of action, liabilities, and/or damages of any kind whatsoever claimed by Complainants in connection with the alleged actions, omissions, or activities that gave rise to the Complaint or the Petition involving the UI benefits program, and hereby release and forever discharge Respondent, its agents, employees and representatives from all such claims, demands, actions, causes of action, liabilities, and/or damages involving the UI benefits program, which have accrued based upon alleged events or actions that have occurred up to and including the date the parties sign this Agreement.
6. In exchange for the promises of Complainants set forth above, Respondent agrees to the following:
 - (a) **Definitions:** For purposes of this Agreement, the following definitions shall apply:
 - i. “Additional Languages” means the top eight to fifteen non-English and non-Primary Languages used by limited English proficient adults in California according to the most recent American Community Survey by the United States Census Bureau.
 - A. At the time this Agreement was executed, the eight additional languages are: Arabic, Farsi, Punjabi, Russian, Japanese, Hindi, Mon-Khmer (Cambodian), and Thai.
 - ii. “Ad Hoc Interpreter” means an untrained and untested bilingual person who is providing informal interpreter support, typically a family member or friend of the person with limited English proficiency.
 - iii. “Babel Notice” means a short notice included in multiple languages informing the claimant that the communication contains vital information and explaining how to access language services to have the contents of the communication provided in other languages.
 - iv. “Compliance Period” means the period of time EDD has to meet its obligations under the Agreement, which continues through April 2024 unless the parties agree to an extension in writing.
 - v. “Interpreting” means using spoken or signed language to transmit a message from one language into another while preserving the meaning, register, and tone of the message.
 - vi. “Limited English Proficient” (LEP) means individuals who do not speak English as their primary language and who have a limited ability to read, write, understand, or speak English.
 - vii. “Linguistically Marginalized Community” means groups whose members use any non-dominant spoken or sign language and are not fully proficient in the dominant language (spoken English in the United States), such as Indigenous Latin American or Deaf communities.
 - viii. “Linguistic Variant” means a distinct form of a language used by people from a specific community or region.
 - ix. “Modernization” refers to the “Re-Imagined Benefits System Modernization” (RBSM) that will enhance business processes by making it customer-centric, adding functionalities such as multi-language and replacing technology.

- x. “Multilingual Access Portal” means the section of EDD’s website that synthesizes critical website content and features all translated vital unemployment insurance documents.
- xi. “Plain Language” is language that the intended audience, including individuals with limited English proficiency, can readily understand and use because that language is concise, well-organized, and follows other best practices of Plain Language writing.
- xii. “Primary Languages” means the top seven non-English languages used by limited English proficient adults in California according to the relevant American Community Survey by the United States Census Bureau.
 - A. At the time this Agreement was executed, the relevant American Community Survey was issued in 2019. Based on the 2019 American Community survey:
 - I. The top seven written languages are Spanish, traditional Chinese, simplified Chinese, Vietnamese, Tagalog, Korean and Armenian.
 - II. The top seven spoken languages are Spanish, Cantonese, Mandarin, Vietnamese, Tagalog, Korean, and Armenian.
 - B. Going forward, the relevant American Community Survey will be the most current at the time the Language Access Plan is updated.
- xiii. “Qualified Bilingual Staff” means a member of EDD’s staff who has passed a formal linguistic proficiency assessment in the target language.
- xiv. “Qualified Interpreter” means a person with oral or signing proficiency in their working languages, knowledge of professional practices, and adherence to an interpreter’s code of ethics, who has been determined to be qualified by a formal certifying body.
- xv. “Qualified Translator” means a person with written proficiency in their working languages, knowledge of professional practices, and adherence to a translator’s code of ethics, who has been determined to be qualified by a formal certifying body.
- xvi. “Substantial Compliance” means compliance that satisfies the essential requirements of the Agreement, but which may be something less than strict and literal compliance with every provision of this Agreement and includes compliance involving deviations from the terms of the Agreement, provided any such deviations do not substantially defeat the objective which the parties intend to accomplish, or to impair the structure of the Agreement as a whole.
- xvii. “Third-Party Vendor” means a business entity that has contracted with EDD for the provision of services in a public-facing capacity as to a UI Claimant.
- xviii. “Translation” means using written language to transmit text from one language into another while preserving the meaning, register, and tone of the message.
- xix. “UI Claimant” “or “Claimant” means an individual who contacts EDD to seek information, applies for, or receives unemployment insurance benefits, including those listed on [EDD Types of Claims](#) (see Attachment A to this Agreement), provided by EDD.
- xx. “Vital Information” means information, whether written, oral or electronic, that is necessary for an individual to understand how to obtain any aid, benefit, service, and/or training or is required by law. Examples of documents containing vital information include, but are not limited to applications; consent and complaint forms; notices of rights and responsibilities; notices advising LEP individuals of their rights, including the availability of free language assistance; rulebooks; written tests that do

not assess English language competency, but rather assess competency for a particular license, job, or skill for which English proficiency is not required; and letters or notices that require a response from the beneficiary or applicant, participant, or employee.

(b) **Early Identification and Record of Language Needs:**

- i. By January 1, 2022, EDD shall develop and implement its processes for capturing UI Claimant spoken language preferences through its online application portal.
- ii. By January 30, 2022, EDD shall develop a policy for the early identification and recording of spoken language needs for UI Claimants.
- iii. By March 1, 2022, EDD shall include on its website and the multilingual website portal, when it becomes available, a statement on the early identification and recording of spoken language needs for UI Claimants on its online portal.
- iv. By June 1, 2022, each application for UI benefits shall contain a section asking UI Claimants to identify their preferred written and spoken or signed languages to be kept in the individual's UI claims record.
 - A. UI Program Staff accessing the UI Claimant's record shall check the UI Claimant's spoken language needs before calling the Claimant and provide appropriate language services through the life of a claim.
- v. By June 30, 2022, EDD shall reference the policy and processes delineated in this section in its Language Access Plan (LAP).

(c) **Interpreting (Oral and Signed) Provided in All Languages:**

- i. By January 1, 2022, EDD must provide oral and signed language UI services in real time by Qualified Interpreters or Qualified Bilingual Staff.
 - A. EDD staff who process unemployment claims and interact directly with UI Claimants ("UI Program Staff") shall have access to the UI Claimant's identified preferred spoken language as described in section (6)(b) in accordance with the timelines described therein.
- ii. By January 1, 2022, if UI Program Staff cannot obtain interpretation in the Claimant's language and Linguistic Variant in real time after good faith efforts to acquire language services, EDD shall ensure that the UI Claimant receives a return telephone or relay call in the UI Claimant's language, and if applicable, in a compatible Linguistic Variant, within a reasonable timeframe, as defined below, of the original contact with EDD.
 - A. A reasonable timeframe includes up to five (5) business days, which may be extended if EDD documents a reasonable, good faith written explanation for the additional time needed to secure preferred signed or spoken language in a compatible Linguistic Variant and provides notice to the UI Claimant verbally, or in writing when practicable. For purposes of providing notice in this situation, EDD shall exercise best efforts to identify and communicate in the UI Claimant's secondary language, or otherwise in English.
 - I. If after the 5th business day, Complainants contend the explanation provided by EDD was not reasonable or in good faith, Complainants may initiate the meet and confer process provided for under section (6)(p).

- II. As part of Modernization efforts, EDD shall develop and implement processes to provide written notice in this situation to the UI Claimant in the Primary Languages and Additional Languages.
 - B. EDD shall maintain a written record of providing language services under this requirement if such services are provided by Third-Party Vendors.
 - C. EDD shall contract with language service providers to meet the language needs of Linguistically Marginalized Communities, including Deaf service providers for signed language interpreting, as well as contracts with language service providers that interpret languages of lesser diffusion such as Indigenous languages of Latin America, consistent with state contracting rules. UI Program Staff shall have direct access to the language services available pursuant to this section.
 - D. EDD shall use best efforts to identify appropriate interpreting services, including confirming that an interpreter and UI Claimant use a compatible Linguistic Variant. If a UI Claimant rejects a specific interpreter due to incompatible Linguistic Variant or other concerns about interpreter competency, EDD shall find a suitable replacement.
- iii. By January 1, 2022, upon a UI Claimant's request, EDD's Qualified Bilingual Staff or staff through a Qualified Interpreter shall read EDD documents and notices aloud to the UI Claimant in their preferred language – even after obtaining a written Translation – and in a compatible Linguistic Variant, within a reasonable timeframe of the request, if such interpreting is not available in real time after good faith efforts to find an interpreter.
 - A. A reasonable timeframe includes up to five (5) business days, which may be extended if EDD documents a reasonable, good faith written explanation for the additional time needed to secure preferred signed or spoken language in a compatible Linguistic Variant and provides notice to the UI Claimant verbally, or in writing when practicable. For purposes of providing notice in this situation, EDD shall exercise best efforts to identify and communicate in the UI Claimant's secondary language, or otherwise in English.
 - I. If after the 5th business day, Complainants contend the explanation provided by EDD was not reasonable or in good faith, Complainants may initiate the meet and confer process provided for under section (6)(p).
 - II. As part of Modernization efforts, EDD shall develop and implement processes to provide written notice in this situation to the UI Claimant in the Primary Languages and Additional Languages.
 - B. EDD staff shall not rely on interpreters to summarize or simplify documents or provide explanations to Claimants.
- iv. EDD staff working with UI Claimants shall comply with EDD's "Call Transfer Policy, as revised March 2021 (Call Policy) and will not rely on Ad Hoc Interpreters or translators.
- v. By June 30, 2022, EDD shall establish or update any policies necessary to carry out the requirements herein and incorporate the policies discussed in this section during the next update of the LAP.

(d) **Increasing Telephonic Access for Linguistically Marginalized Communities:**

- i. By December 1, 2022, EDD shall provide dedicated phone lines for unemployment insurance claims in the Primary Languages in an effort to provide consistent wait times across all phone lines, without reducing the number of existing UI dedicated language phone lines. More specifically, EDD will add UI dedicated language phone lines to include the remaining Primary Languages: Korean, Tagalog, and Armenian.
- ii. By June 30, 2022, EDD shall develop a policy and train UI Program Staff on how to ensure that all UI dedicated language phone lines are utilized for speakers of the dedicated language.
 - A. EDD shall provide language-specific pre-recorded messages to instruct non-target language speakers to disconnect and call the appropriate UI phone number.
 - B. UI Program Staff shall only communicate with callers on the dedicated language phone lines in the target language.
 - C. UI Program Staff shall be trained and directed to re-route callers to the appropriate UI phone line if they do not speak the language of the dedicated language phone line.
 - D. UI Program Staff shall be trained and directed to not unnecessarily direct a UI Claimant who calls the English line and speaks a Primary Language to the dedicated language lines, rather than using interpreting services on the English line.
 - E. EDD will continue to make efforts to increase the staffing and interpretation support on all of its UI phone lines.
- iii. During the Compliance Period, EDD's EEO Officer or designee will continue to accept requests, as many as fifty (50) per week, for language services from community-based and legal advocacy organizations who are assisting members of Linguistically Marginalized Communities with accessing EDD administered benefits.
 - A. EDD will inform Complainants if requests for language services exceed fifty (50) per week.
- iv. By June 30, 2022, EDD shall update and incorporate the policies discussed in this section during the next update of the LAP.

(e) **Expanding Written Translations of Materials:**

- i. By December 1, 2022, EDD shall translate all static, non-personalized documents containing unemployment insurance Vital Information into Primary Languages and Additional Languages.
 - A. Such Translations shall be performed by qualified human Translators.
 - B. As forms are translated, prior to the December 1, 2022 implementation date, EDD may make them publicly available.
 - C. Such documents shall be integrated into all Modernization efforts and implemented at the earliest feasible point of the Modernization process that would enable the mass generation of translated personalized documents in the Primary Languages and Additional Languages.
 - D. A claimant may request written translation by phone, in writing, or electronic correspondence through channels EDD provides. A claimant may request

translated materials throughout the life of the claim, even if a UI Claimant did not initially identify a preferred language other than English.

- E. If a UI Claimant's written language is not among the Primary and Additional Languages, upon the Claimant's request, EDD shall provide the Claimant with Translation or Interpreting of Vital Information in their preferred language.
- ii. By June 30, 2024, and at least every three years thereafter, EDD will review, evaluate, and update the list of Primary and Additional Languages in which to provide written Translations of Vital Information.
 - A. In determining how many languages to add to the definition of Additional Languages, EDD may consider various data sources, including, but not limited to, the United States Census Bureau, including the American Community Survey, data collected by state and local government agencies, feedback from community-based organizations (CBOs), and EDD's own data tracking measures, such as the number of UI claimants who reported their preferred spoken language (broken down by language) and the numbers of those seeking Translation or Interpreting through Third Party Vendors (broken down by languages).
 - I. When EDD becomes able to send written materials in more languages post-Modernization, EDD may also consider the number of UI Claimants who reported their preferred written language (broken down by language).
 - B. During the intervening three years, EDD may evaluate language services provided through language services provided by Third Party Vendors to determine if Vital Information should be translated into other additional languages (beyond the Primary and Additional Languages). This determination may include an evaluation of the costs and savings, if any, and the level of effort associated with the Translation among other considerations.
 - C. If EDD determines to add additional languages, no existing Primary or Additional Languages shall be removed or replaced.
- iii. All applicable translated documents described in this section shall be readily available on EDD's website via the multilingual web portal.
- iv. EDD shall include a Babel Notice, indicating in appropriate languages that language assistance is available, in all communications of Vital Information to UI Claimant. The languages in the Babel Notice shall include Primary Languages and Additional Languages, and other languages.
- v. By April 1, 2024, EDD shall translate its UI Online interface and paper application for unemployment insurance benefits in the Primary Languages.

(f) **Extending Deadlines Due to Language Barriers and Good Cause:**

- i. By March 1, 2022, if EDD's provision of language services unduly delays an individual's receipt of services or benefits, the individual's time to meet EDD's deadlines shall be extended for the period of time necessary to receive the language services.
 - A. Any time required to secure and convey language services, including oral and signed interpreting services and Translations, shall not be counted against applicable UI Claimant deadlines to respond to the content of the EDD

communication, including the backdating of a claims filing date to the date that the UI Claimant first attempted to file the claim and provided EDD with notice of the need for language services under the principles of good cause.

- B. By March 1, 2022, EDD shall provide Complainants with a draft of its policy articulating the good cause principle for tolling response deadline for the provision of Translation or Interpreting, consistent with AB 138 (2021). EDD may engage in rulemaking, for example, pursuant to 1 CCR § 100, if needed to implement the legislation.
- C. By March 1, 2022, EDD shall implement its policy articulating the good cause principle for tolling response deadline for the provision of Translation or Interpreting, consistent with AB 138 (2021). EDD may engage in rulemaking, for example, pursuant to 1 CCR § 100, if needed to implement the legislation.
- ii. By June 30, 2022, EDD shall establish or update any policies necessary to carry out the requirements herein and incorporate the policies discussed in this section during the next update of the LAP.

(g) **Developing Multilingual Access Portal:**

- i. By February 1, 2024, EDD shall establish and host a Primary Language Multilingual Access Portal housing Vital Information related to UI.
- ii. EDD will provide information on the availability of language services prominently on EDD's website, specifically the appropriate phone number or phone numbers for individuals to contact when seeking multilingual unemployment insurance services in their preferred written or spoken language.
- iii. By December 1, 2022, translated notices and other vital documents shall be made available on EDD's website organized and translated by language.
 - A. EDD will provide information on the availability of language services prominently on EDD's website and provide a link and explanation on the homepage of a UI Online claimant's account.
 - B. Vital Information, not including notices and other documents, on EDD's website regarding UI shall be adapted to Plain Language before Translation and made accessible via the Multilingual Access Portal.

(h) **Community Outreach to Linguistically Marginalized Communities:**

- i. By March 1, 2022, EDD shall conduct targeted outreach to Linguistically Marginalized Communities to solicit advice on policies and practices affecting individuals who are eligible for EDD's services and benefits.
- ii. By March 1, 2022, EDD shall market and promote its programs and multi-lingual services to the general public and Linguistically Marginalized Communities.
 - A. These campaigns may include integration of labor market research, multilingual approaches which may include specialized marketing materials, press releases, newsletters, promotional videos, etc.
 - B. These campaigns may be in the Primary Languages, Additional Languages, or other languages spoken by linguistically marginalized communities based on demonstrated community need, community request, or stakeholder input.

- C. By January 30, 2022, EDD will identify staff or vacant positions within EDD who will be responsible for leading the Linguistically Marginalized Communities outreach effort.
- D. Within ninety (90) days of the appropriate staff person being hired or identified, EDD shall develop a written outreach plan on how to conduct outreach to Linguistically Marginalized Communities. The plan shall include: steps necessary to create and translate written materials; potential organizations or community members with whom EDD can contract and/or partner; identify methods of distribution of outreach materials; and Third-Party Vendors or internal staff who can assist with outreach materials.
- iii. By March 1, 2022, EDD will establish a grant program lasting at least two years to fund a selected number of CBOs to provide outreach and education to linguistically marginalized communities.

(i) **Multilingual Access Officer & Unit and UI Program Staff Training:**

- i. By March 1, 2022, EDD shall employ a full-time multilingual access officer (Officer) and multilingual access unit to coordinate EDD's multilingual access services, provide technical assistance to EDD staff, and monitor the provision of multilingual access services.
 - A. By January 30, 2022, EDD will begin recruitment of the Officer.
- ii. EDD shall provide to UI Program Staff and their direct supervisors training on EDD's Call Policy by January 1, 2022, or for new hires, within sixty (60) days of their starting work or before they are assigned to answer or make calls to UI Claimants, whichever is later.
 - A. EDD shall maintain a record of the date each member of the UI Program Staff is trained.
 - I. Upon request, Complainants will be provided a copy of the training materials, redacted if necessary, and/or aggregated training records.
- iii. EDD shall provide ongoing internal support, such as technical support and follow-up training annually, to trained UI Program Staff.
- iv. By June 30, 2022, EDD shall update and incorporate the policies in this section during the next update of the LAP.

(j) **Modernization:**

- i. EDD's permanent processes for capturing and utilizing language information is a priority that shall be developed, integrated, and implemented during and as part of EDD's Modernization. This should include exploration of entirely new, different, or parallel systems that can effectively capture and utilize spoken, signed, and written language preferences and that can produce mass generation of translated personalized notices transmitted directly to Claimants of the UI, DI, and PFL programs.
- ii. For Modernization, EDD shall draft a bid for proposal that is consistent with the terms of this Agreement. EDD shall not contract for services or products that will not accommodate language services as detailed in this Agreement.
- iii. By June 30, 2022, EDD shall develop a plan on how Modernization will accommodate the language services detailed in this Agreement. That plan shall include:

- A. How Modernization will enable early identification and record of claimant language needs will be integrated into Modernization.
 - B. How Modernization will include the technological capacity to track written language preferences and develop and implement the integration of systems to transmit written translations of non-static, personalized Vital Information directly to claimants. These processes must account for and allow language groups being added and removed, depending on need.
- iv. Until Modernization is completed, EDD may continue to explore temporary solutions to meet the language obligations in this Agreement, including but not limited to parallel operating systems that are not dependent on the existing technological limitations.
- v. Within six months of EDD completing Modernization, all forms and documents containing Vital Information shall be generated in the Primary Languages and transmitted directly to UI Claimants consistent with Claimants' preferences.
 - A. A UI Claimant's request for translated written materials applies for the life of the claim.
 - B. An English version of communications provided directly to UI Claimants shall be sent to the UI Claimant on their online account, if they have one.
 - C. EDD shall develop procedures, policy, and communications for such languages as delineated in section (6)(b) as to written language information.
 - D. EDD shall in the future consider the integration of additional languages for all forms and documents containing Vital Information transmitted directly to UI Claimants, consistent with section(6)(e)(i)(C).

(k) **Third-Party Vendors:**

- i. EDD shall provide identified UI Claimant language information to Third Party Vendors, post application, as needed to ensure proper in-language communication with UI Claimants about their claims by UI Claimant-facing Third-Party Vendors. EDD shall also require UI Claimant-facing Third-Party Vendors to develop and implement policies to continually identify each Claimant's language needs throughout the Third-Party Vendor's service on the claim, consistent with all timelines stated herein.
- ii. All prospective UI Claimant-facing Third-Party Vendors who contract with EDD will be required to provide language access to communities with limited English proficiency consistent with the terms and conditions referenced in Attachment B to this Agreement and other applicable federal and state non-discrimination mandates as sub-recipients of federal and state funding.
- iii. By March 1, 2022, for current contracts with UI Claimant-facing Third-Party Vendors, with a remaining contract term of 6 months or more, where the contract is amended for its term, money, or other amendment basis, EDD will revisit those contract terms with the Vendors with the purpose of renegotiating those contracts to adhere to the terms and conditions referenced in Attachment B to this Agreement and other applicable federal and state non-discrimination mandates as sub-recipients of federal and state funding.
 - A. During this process of revisiting contracts, EDD will reinforce to all UI Claimant-facing Third-Party Vendors that they are subject to existing

obligations under federal and state non-discrimination mandates as sub-recipients of federal and state funding.

- B. EDD will offer to all UI Claimant-facing Third-Party Vendors with current contracts access to its language service providers for the remainder for the contract term.
 - iv. Contracts with Third-Party Vendors that are language service providers should contain, at a minimum, provisions that ensure that the provider will instruct interpreters to: abide by confidentiality; commit to a code of ethics followed by the organization's interpreters; and receive training and ongoing demonstration of qualifications to serve in the role of interpreter.
- (l) **Formation of Multilingual Access Advisory Board:**
- i. EDD shall oversee the establishment of a Multilingual Access Advisory Board (MAAB), within 180 days of EDD completing its staffing the Language Access Office, to provide input and community review of multilingual materials, provide comments to EDD's language access plan, and advise EDD on issues affecting Californians with limited English proficiency who are eligible for EDD services and benefits.
 - ii. Within 90 days of being employed, the Officer shall create a plan and structure for the MAAB's governance and membership, with input from Complainants. That plan shall reflect the requirements below:
 - A. The MAAB shall consist of members who serve for limited terms on a rotating basis including a cross section of representatives for linguistically marginalized communities.
 - I. The majority of the MAAB shall consist of members who are not currently employed by the State of California.
 - B. The MAAB shall include one or more Complainants in the initial and subsequent term.
 - C. The MAAB shall meet at least once every two months.
 - D. The MAAB shall facilitate proactive community feedback and data, including from Deaf service providers and organizations serving Linguistically Marginalized Communities in both urban and rural areas of the state.
 - E. Members of the MAAB will have the ability to participate in agenda setting and suggest issues to be discussed and addressed by the MAAB.

(m) **Complaint Process:**

- i. EDD shall continue to maintain a transparent complaint process for applicants with limited English proficiency that is accessible by electronic or paper filing for UI Claimants. In addition to verbally submitted complaints, UI Claimants may file written complaints via email or U.S. mail on a complaint form (available in the Primary and Additional Languages) or as a generalized written complaint.
- ii. EDD's procedure for complaints filed by UI Claimants shall continue to comply with statutory requirements established by WIOA regulations, at 29 CFR 38.69 through 38.85 and the Dymally-Alatorre Bilingual Services Act.

(n) **Data Collection and Internal Monitoring:**

- i. By March 1, 2022, EDD shall engage in regular data collection, monitoring, and oversight of multilingual access unemployment insurance services, including the following:
 - A. Language preferences of UI Claimants, including which language services for Qualified Interpreters were requested and provided by Third Party Vendors.
 - B. Phone usage by UI Claimants by spoken language, including, but not limited to: caller's preferred spoken language; wait times to be connected to a Qualified Interpreter through a Third Party Vendor, if the Third Party Vendor has the ability to capture such information; unanswered calls that do not make it into the call answer queue on each dedicated language line; disconnections and dropped calls on each dedicated language line; average queue volumes on each dedicated language line; length of time taken for call backs by language where language services are provided by a Third Party Vendor not in real-time, including any reasonable, good faith written explanations for delays referenced in sections (6)(c)(ii)(A) and (6)(c)(iii)(A); and staffing levels on each of the dedicated language lines.
 - C. The number of complaints related to language access that were filed by language, the nature of those complaints, and how those complaints were resolved.
 - D. The processing times for first time payment promptness of UI claims by language.

(o) **Reporting:**

- i. During the Compliance Period, EDD shall provide a written report to Complainants about the completion of the steps outlined in this Agreement on a quarterly basis, with the first report due on June 1, 2022.
- ii. During the Compliance Period, if requested by Complainants, the Parties shall meet on a semi-annual basis to discuss the EDD's efforts to implement this Agreement and to attempt to resolve any disputes regarding its implementation or enforcement. A meeting shall be scheduled with no fewer than 30 days notice and within 60 days of the request.
- iii. During the Compliance Period, if requested by Complainants, EDD shall provide the following records or written information on a semi-annual basis (i) any information used or reports prepared as part of section (6)(n); (ii) invoices for use of Interpreting and Translation by Third-Party Vendors; (iii) contracts with Third-Party Vendors as delineated in section (6)(k); (iv) all English and translated Vital Information documents provided to UI Claimants; (v) phone usage data as delineated in section (6)(n)(i)(B); (vi) training materials and records demonstrating compliance with the training requirements delineated in section (6)(i); (vii) staffing plans and staff vacancy reports regarding the Multilingual Language Access Office; and (viii) updates on the status of language access planning within the SDI and PFL programs.
 - A. EDD will redact any personal information of UI claimants or EDD employees from any documents provided to Parties.

- iv. During the Compliance Period, EDD shall maintain written records of and, beginning March 1, 2023, report annually to Complainants the total number of applications and UI Claimants, including the preferred spoken language.
 - A. If the capturing of preferred written language becomes available through Modernization during the Compliance Period, EDD shall also track and report annually to Complainants the total number of applications and UI Claimants by preferred written language of the applicant or Claimant during the Compliance Period.
 - B. EDD shall track and, beginning March 1, 2023, report annually to Complainants the Third-Party Vendor expenditures – excluding staff costs – specifically appropriated by the 2021 Budget Change Proposal on language access.
 - v. By July 1, 2022, EDD shall report to the legislative budget and policy committees on the status of multilingual access services to be delivered to individuals participating in the SDI and PFL programs.
- (p) **Dispute Resolution:**
- i. **Meet and Confer Obligation:** If any Party believes that a dispute exists relating to either a language access issue for an individual Claimant represented by one or more of the Complainants or Substantial Compliance issues with the provisions of this Agreement, it shall notify the other Party in writing and describe the alleged violation or failure to perform with particularity. The Parties shall meet and confer about the alleged violation, and the responding Party shall provide a written response within fifteen (15) business days of receipt of such notice. Following the response, if the Complainant(s) contend that the response is not sufficient, the responding Party shall be provided time to cure any alleged violation or failure, which shall not exceed thirty (30) calendar days for language access issues for individual Claimants and shall not exceed ninety (90) calendar days for Substantial Compliance issues. The cure period shall be from the date of Complainant(s) communicating that the written response by the responding Party is not sufficient. If the Parties cannot mutually agree on the cure for Substantial Compliance issues, the Parties shall follow the procedures set forth in paragraph (6)(p)(ii).
 - A. Complainants are not required to engage in the Meet and Confer Obligation with respect to an appeal to the CUIAB of a determination regarding a claim for benefits, or any writ of mandate filed pursuant to Code of Civ. Proc. Sec. 1094.5 regarding the CUIAB’s determination of the issues raised in that appeal.
 - ii. **Mediation Obligation:** The Parties agree and acknowledge that in the event informal Meet and Confer efforts do not resolve an alleged failure of Substantial Compliance brought to the attention of the Respondent, Complainants will refer the dispute to the DFEH, or a mutually agreeable mediator. For the DFEH mediation, the Parties understand and agree that Complainants shall email drdonlinerequests@dfeh.ca.gov to request mediation, which shall be calendared no later than 45 days from the date of the request. If the mediation is not completed within 6 months, without an agreement to extend this period, the mediation obligation shall be deemed satisfied.

- iii. No party shall be eligible to recover reasonable fees and costs incurred with complying with the provisions of subparagraphs (i) and (ii) above unless an enforcement proceeding is commenced pursuant to subparagraph (iv) or individual relief is pursued pursuant to subparagraph (v).
- iv. If the Parties are unable to resolve a Substantial Compliance dispute either through the Meet and Confer or Mediation processes described above, any Party who is also a party to the Petition may seek enforcement of the Agreement through the filing of a motion to enforce the writ referenced below and/or terms of that Agreement with the Superior Court, civil action in court, or other complaint before any other local, state, or federal governmental entity. The prevailing party in the enforcement action shall be eligible to recover reasonable fees and costs.
- v. Complainants assisting individuals with new claims arising after the signing of this Agreement may proceed pursuant to sections 3(b) and (c)(i).

(q) **Writ of Mandate:**

- i. In order to establish an enforcement mechanism to ensure compliance and the preclusive effect of this settlement, the Parties further agree that the Complainants will cause the Petition (a true and correct copy of which is attached as Exhibit 1) to be filed in the Superior Court of Sacramento County upon execution of the Agreement. The parties will additionally cause to be filed a duly executed stipulation for entry of judgment, a true and correct copy of which is attached as Exhibit 2, and lodge the proposed judgment (the Stipulated Judgment) and proposed stipulated writ of mandate (the Stipulated Writ), true and correct copies of which are attached as Exhibits 3 and 4, respectively.
- ii. The Stipulated Writ will include a provision extending jurisdiction of the Superior Court for the duration of the Compliance Period for the purpose of enforcing the terms of the writ of mandate and provisions of this Agreement.

(r) **Attorneys' Fees and Costs:**

- i. With respect to the issue of attorneys' fees and costs incurred by the Complainants, the stipulation for entry of writ of mandate and proposed judgment will include a provision agreeing to an award and payment in the total amount of \$100,000 for attorneys' fees and costs ("the Fee Award") to the Petitioners, per the terms of the Stipulated Judgment.
 - ii. Except for the Fee Award, or as otherwise set forth herein, the Parties shall bear their own attorneys' fees and costs.
7. This Agreement shall not supersede any developments to the law in the event new legislation is enacted or new regulations are promulgated after the execution of this Agreement that exceeds the improvements on language access contained in this Agreement.
8. EDD shall notify Complainants of any factor that may delay, affect, or preclude implementation of the terms of this Agreement, as well as EDD's proposed response to the factor causing delay. If EDD requires additional time to complete the terms of the Agreement based on factors outside of EDD's control, the Parties must mutually agree

upon a reasonable extension of time and adjust the Compliance Period accordingly. If the Parties cannot mutually agree, the Parties shall follow the procedures set forth in paragraph (6)(p)(ii).

9. The parties agree that the provisions of this Agreement are contractual and not mere recitals.
10. Each party, in signing this Agreement, warrants they have the authority to bind the entity or individual on whose behalf the party has signed.
11. The parties understand and agree that this Agreement constitutes the sole Agreement between the parties regarding the above-described complaint of discrimination and that, in signing this Agreement, the parties have not relied on any other promises, inducement, or representations, other than as expressly set forth herein, in deciding to sign this Agreement. This Agreement constitutes the sole Agreement between the parties as to the above-described Complaint of discrimination and may only be modified in a writing signed by all parties.
12. If any provision of this Agreement is held to be invalid and/or unenforceable, the Agreement shall be considered as if the invalid and/or unenforceable portion did not exist, with all remaining portions considered valid and enforceable.
13. In signing this Agreement, the parties agree, understand, and intend that this Agreement shall be binding and enforceable as permitted under law.
14. In signing this Agreement, Complainants and Respondent acknowledge that neither the mediator nor the DFEH or any of its agents or employees has served as an attorney or a tax advisor to either Complainants or Respondent. Complainants and Respondent further acknowledge that each has the right to seek tax advice, and to review this Agreement with a tax attorney or tax consultant, prior to signing.
15. This Agreement shall be interpreted under the laws of the State of California.
16. In signing this Agreement, Complainants hereby waive any rights that Complainants have, or after signing this Agreement may have, as set forth under Civil Code section 1542, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.
17. Nothing in this Agreement shall require the parties to take or forego actions that would breach their ethical obligations, including for Complainants to any current or future clients.

18. This Agreement may be signed in counterparts, each of which shall be deemed to be an original, and all of which taken together shall constitute one and the same agreement. Faxed, electronic and/or email signatures shall be acceptable signatures for purposes of binding the parties to the terms of this Agreement.
19. By their respective signatures, Complainants and Respondent acknowledge that: 1) they have carefully read and fully understand all the provisions of this Agreement; 2) they are voluntarily entering into this Agreement with full knowledge of the rights they may be waiving; 3) they have entered into this Agreement based on their own judgment; and 4) they have not relied upon any representations or promises not contained in this Agreement.

Dated: 02/24/2022


Joann Lee, Special Counsel
Legal Aid Foundation of Los Angeles

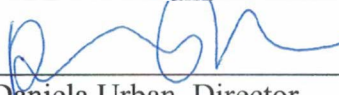
Dated: 2/24/2022


Marisa Lundin, Legal Director, Indigenous Program
California Rural Legal Assistance, Inc.

Dated: 2/24/22


Winifred Kao, Senior Counsel
Asian Americans Advancing Justice – Asian Law Caucus

Dated: 2/24/2022


Daniela Urban, Director
Center for Workers' Rights

Dated: 2/24/2022


Katherine Wutchiett, Staff Attorney
Legal Aid at Work

Dated: 02/25/2022


Nancy Farias, Director
Employment Development Department

ATTACHMENT A

Types of Claims

The Unemployment Insurance (UI) program provides temporary payments to individuals who are unemployed through no fault of their own and meet all other [eligibility requirements](#). Visit the [File a UI Claim](#) page for more information on filing online, by phone, or by mail/fax. Below are the different types of UI claims that can be filed:

Regular Unemployment Insurance

These claims are based on wages earned from employers covered by the California UI Code and paid from the UI fund. The claim is based on California wages paid in specific quarters.

Pandemic Unemployment Assistance

These claims are part of the new [federal provisions](#) that help unemployed Californians who are not usually eligible for state UI benefits. This includes business owners, self-employed workers, independent contractors, and those with a limited work history who are out of business or have significantly reduced their services as a direct result of the COVID-19 pandemic.

Unemployment Compensation for Federal Employees

These claims provide unemployment compensation to former or partially unemployed federal civilian employees. A federal civilian employee may have worked for the United States Postal Service or the Internal Revenue Service. These claims are funded by the Federal government and are subject to regular state eligibility requirements.

Unemployment Compensation for Ex-Service Members

This program provides unemployment compensation to former service members upon release from active military service. These claims are also funded by federal funds and are subject to regular state eligibility requirements.

Joint Claims

A joint claim is a claim using base period earnings of more than one type, e.g., federal civilian wages, federal military wages, and regular state-covered wages. These claims are based on both California wages and federal wages.

Interstate

These claims can be filed in California against earnings from another state. For example, an unemployed New Yorker who just moved to California will file an "interstate claim."

Combined Wage

These claims are based on wages earned in two or more states.

Training Extensions

These claims provide eligible [California Training Benefit \(CTB\)](#) claimants with additional benefits beyond their regular claim. The CTB program allows eligible claimants who lack competitive job skills to receive their benefits while attending an approved training/retraining program.

[Trade Readjustment Allowances](#)

These claims provide additional federally funded benefits for workers who are eligible for the Trade Adjustment Assistance (TAA) program under the Trade Act of 1974. Before an individual can apply for TAA benefits or apply for a Trade Readjustment Allowance, the United States Department of Labor must certify that increased imports or a shift in production to foreign countries contributed to the worker's unemployment. Workers must be enrolled in or have completed an approved training course in order to receive these benefits, unless the training requirement is waived.

[Work Sharing](#)

This program allows for the payment of UI benefits to employees of participating employers whose hours and wages have been reduced. These claims are considered an alternative to layoffs.

[Partial](#)

This program enables employers to retain trained staff during slow business periods. Employees are then available for full-time employment as business improves. Employers may use the partial program if employees are temporarily working reduced hours or have been placed on layoff status for no more than two consecutive weeks. Employees who are laid off due to lack of work for more than two consecutive weeks must claim benefits in the usual manner and meet regular UI requirements.

[Disaster Unemployment Assistance](#)

This federal program provides financial assistance and employment services to dislocated workers and the self-employed when they are unemployed as a direct result of a major natural disaster.

[School Employee Claims](#)

These claims are for those individuals who work or provide services for a public or private non-profit school employer. A school employee (unless stated otherwise) is also a school supportive employee. These are employees who are employed by a non-profit or public entity employer and who provide services to, or on behalf of an educational institution.

School employee claims have distinctive eligibility requirements. For example, a school employee may not be eligible to receive benefits if all the following occur:

1. A claim is filed during a recess period.
2. Only school wages are in the base period of the claim.
3. There is an offer to return to work for a school employer when the recess period ends.

ATTACHMENT B

The Contractor shall ensure that Unemployment Insurance customers with Limited English Proficiency (LEP) have meaningful access and equal opportunity to participate in its services.

The Contractor shall provide services under this contract, which may include, but are not limited to oral and written language translation. Communication with customers shall occur, and could take the following methods: telephone, email, online portal, or in person.

If the Contractor provides services by telephone or in person, the Contractor shall employ or contract with a language support services vendor or vendors capable of providing oral language services and communications in at least the following languages: English, Spanish, Armenian, Tagalog, Cantonese, Mandarin, Vietnamese, and Korean. The Contractor's language support services vendor(s) shall be approved by the EDD. The Contractor shall bear its own costs associated with its language support services vendor(s).

If the Contractor, or its support services vendor(s), cannot obtain interpretation in the customer's preferred spoken language at the time of the call, Contractor shall work with the Contract Monitor to determine if the EDD has another resource for the specified language and interpretation.

If the Contractor, or its support services vendor(s), cannot obtain interpretation in the customer's language at the time of the call after good faith efforts to acquire language services, Contractor shall ensure that the customer receives a return telephone or relay call in the customer's preferred spoken language, within a reasonable timeframe of the original contact with Contractor.

If the Contractor provides services by email or online portal, on or after December 1, 2022, the Contractor shall employ or contract with a language support services vendor(s) capable of providing written translation of all static, non-personalized documents containing unemployment insurance Vital Information in the following languages which include, but are not limited to: English, Spanish, Armenian, Tagalog, Simplified and Traditional Chinese, Vietnamese, Korean, Arabic, Farsi, Punjabi, Russian, Japanese, Hindi, Khmer, and Thai. The Contractor's language support services vendor(s) shall be approved by the EDD. The Contractor shall bear its own costs associated with its language support services vendor(s).

The Contractor, or its support services vendors, shall not rely on ad hoc interpreters or translators (untrained and untested bilingual persons who are providing informal interpreter support). Language translators shall meet the minimum standard of qualifications as outlined in the solicitation documents.

Upon a customer's request, the Contractor, or its support services vendor(s), shall read EDD documents and notices aloud to customers in their preferred language within a reasonable timeframe of the request. Contractor shall not rely on interpreters to simplify documents or provide explanations to a customer.

The Contractor, or its support services vendor(s), will ensure interpreters and translators abide by professional interpreter and translator ethics, including confidentiality, impartiality, and accuracy; and will have received professional training and provide an ongoing demonstration of qualifications to serve in the role of interpreter and/or translator.

EXHIBIT 1

**VERIFIED PETITION FOR WRIT OF MANDATE
(CODE CIV. PROC. § 1085)**

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6 Attorneys for Petitioner
LEGAL AID FOUNDATION OF LOS ANGELES

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10 141 N A St, Ste D
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11 Telephone: (661) 854-3839

12 Attorneys for Petitioner SILVIA HERNANDEZ

13 [Additional Counsel Listed on Next Page]

14 **SUPERIOR COURT OF CALIFORNIA**
15 **COUNTY OF SACRAMENTO**

16 LEGAL AID FOUNDATION OF LOS
ANGELES; SILVIA HERNANDEZ; ASIAN
17 AMERICANS ADVANCING JUSTICE –
ASIAN LAW CAUCUS; CENTER FOR
18 WORKERS’ RIGHTS; and CHINESE FOR
AFFIRMATIVE ACTION,

19 Petitioners,

20 v.

21 CALIFORNIA EMPLOYMENT
22 DEVELOPMENT DEPARTMENT,
and NANCY FARIAS, in her official capacity
23 as Director, California Employment
Development Department,

24 Respondents.
25

) Case No.:

) Assigned to the Honorable

) **VERIFIED PETITION FOR WRIT OF**
) **MANDATE (CODE CIV. PROC. § 1085)**

) Date:

) Time:

) Dept:

1 CONTINUED ATTORNEYS FOR PETITIONERS:

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10 CENTER FOR WORKERS' RIGHTS

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23 Attorneys for Petitioner SILVIA HERNANDEZ

INTRODUCTION

1. Petitioners Legal Aid Foundation of Los Angeles (LAFLA), Silvia Hernandez, Asian Americans Advancing Justice – Asian Law Caucus (AAAJ-ALC), Center for Workers’ Rights (CWR), and Chinese for Affirmative Action (CAA) bring this action to ensure compliance with the various state and federal mandates that require that California agencies, and specifically Respondent Employment Development Department (EDD), provide effective access to non-English speakers who use services or programs funded by state or federal money.

2. California is home to the nation’s largest population with limited English proficiency (LEP). The state has close to 7 million residents who primarily speak one of over 200 non-English languages. While Spanish is the most common non-English language (constituting approximately 64% of Californians with LEP), the state has approximately 2.4 million residents with LEP who speak languages other than Spanish.

3. For too many years, individuals from linguistically marginalized communities in California who were otherwise eligible for critical safety-net benefits have suffered significant delays in accessing unemployment insurance (UI) and other benefits administered by the EDD. In some instances, non-English speakers have been denied access altogether due to EDD’s inability to communicate with them and obtain critical information necessary for processing their claims.

4. During the COVID-19 pandemic, this lack of effective access, or any access, became even more linguistically oppressive for claimants seeking UI and COVID-19 related federal benefit programs. Whereas some non-English speaking claimants had previously been able to apply for benefits by phone, during the pandemic, call volumes rendered EDD’s phone lines impenetrable for the vast majority of callers. Claimants were put on hold for hours only to be cut off or transferred to a claims administrator who could not speak their language and could not or would not obtain assistance to do so. The four UI phone lines EDD maintained in non-English languages proved just as inaccessible.

5. Additionally, while EDD referred claimants to the online portal as the fastest

1 way to file, process, and access information about their claims, that system is only available
2 in English and Spanish. All other language users have been left to rely on the unvetted and
3 inaccurate machine translation of a Google Translate bar.

4 6. Similarly, EDD notices are sent to claimants in English and with some
5 inconsistently in Spanish. Even some claimants who might submit a claim by mail using
6 EDD's hard-copy Spanish language claim form, have nonetheless received notices advising
7 them of the need for additional information, or denying their claim, in English only. Until
8 recently, third-party contractors hired by EDD to provide critical services, such as identity
9 verification and benefits payment, could not consistently meet the needs of individuals who
10 required assistance in any language other than English. Translated instructional materials,
11 to the extent they existed online, were often difficult to find.

12 7. As a result, Petitioners, their clients, and likely tens of thousands of eligible
13 individuals dependent on or in need of unemployment insurance and other programs
14 administered by the EDD, have gone unpaid for months and in some instances, even years,
15 or received no benefits whatsoever.

16 **PARTIES**

17 8. Petitioner LAFLA is a non-profit law firm whose mission includes the
18 provision of free legal services to people living in poverty across the Greater Los Angeles
19 region, including many linguistically marginalized communities. LAFLA's legal work
20 includes assistance with various government benefits programs, including those
21 administered by EDD. LAFLA has diverted considerable resources, generally and directly
22 on behalf of its clients, to address the persistent language barriers in EDD's UI program.

23 9. Petitioner Silvia Hernandez is a resident of California who has applied for
24 UI benefits and sought information about UI benefits in the State of California in the past
25 and plans on continuing to do so in the future, since she is a seasonal farmworker and
26 experiences predictable gaps in employment. Petitioner Hernandez has encountered barriers
27 to effectively processing her claim due to the fact that she is not fully fluent in English and
28 requires the assistance of an interpreter in her primary language. Petitioner speaks Mixteco

1 from San Juan Mixtepec, Juchitahuaca, Oaxaca, Mexico, speaks limited Spanish, and has
2 limited literacy in Spanish. Due to her occupation, she is likely to be laid off from work in
3 the future and file for UI benefits and will again require interpretation or translation
4 assistance in order to effectively process her claim or seek information from EDD.

5 10. Petitioner AAAJ-ALC is a non-profit law firm whose mission includes the
6 provision of free legal services to low-income Californians, including those from Asian,
7 Arab, Middle Eastern and Muslim communities in Northern California, many of whom are
8 non-English speakers. AAAJ-ALC's legal work includes assistance on claims including
9 those for EDD administered benefits. AAAJ-ALC has diverted considerable resources,
10 generally and directly on behalf of its clients, to address the persistent language barriers in
11 EDD's UI program.

12 11. Petitioner CWR is a non-profit organization whose mission includes the
13 provision of free legal services to low-income Californians, many of whom are non-English
14 speakers in the greater Sacramento area. CWR's legal work includes assistance on claims
15 including those for EDD administered benefits. CWR has diverted considerable resources,
16 generally and directly on behalf of its clients, to address the persistent language barriers in
17 EDD's UI program.

18 12. Petitioner CAA is a non-profit, community-based organization whose
19 mission includes providing non-legal services to the Chinese immigrant community in
20 California and ensuring and improving language access to state and local agencies. The
21 majority of the individuals served by CAA are not fluent in English and regularly encounter
22 difficulties accessing services, including EDD services, due to EDD's lack of effective
23 translation or interpretation. CAA has and continues to expend resources to assist members
24 of the community who require interpretation or translation of information related to their UI
25 claims.

26 13. Respondent EDD is a department of the California Labor and Workforce
27 Development Agency. EDD is funded by both state and federal funds to perform functions
28 which encompass administering the state UI program, including processing claims,

1 conducting audits, collecting payroll taxes, and maintaining employment records for
2 California workers.

3 14. EDD is the California State Workforce Agency which receives federal
4 funding from the U.S. Department of Labor, to administer the UI program and other
5 programs under the Workforce Innovation and Opportunity Act (WIOA).

6 15. Respondent Nancy Farias is the acting Director of EDD. She is sued in her
7 official capacity. As Director, she is responsible for the enforcement, operation and
8 execution of laws pertaining to the administration of the UI program, and for overseeing the
9 operations of EDD and ensuring that it complies with all state and federal legal mandates,
10 including the language access requirements of Title VI of the Civil Rights Act of 1964 (42
11 U.S.C. § 2000d) and its implementing regulations (28 C.F.R. § 42.101 *et seq.*; 28 C.F.R. §
12 42.401 *et seq.*); the Workforce Innovation and Opportunity Act (WIOA) and its
13 implementing regulations (29 C.F.R. Part 38); California Unemployment Insurance Code §
14 316 (as amended in 2021); California Gov. Code §§ 11135 *et seq.*; and the Dymally-
15 Alatorre Bilingual Services Act (Gov. Code §§ 7290 *et seq.*).

16 JURISDICTION AND VENUE

17 16. This Court has jurisdiction per Code of Civil Procedure § 1085, which
18 allows the court to issue a writ of mandate to compel EDD to comply with state and federal
19 law.

20 17. Specifically, Respondents are charged with various ministerial duties to
21 comply with Title VI, WIOA, Government Code §11135, and the Dymally-Alatorre
22 Bilingual Services Act.

23 18. Petitioners have no other adequate remedy at law to make EDD comply with
24 those statutory and regulatory provisions and have a beneficial interest in the outcome of
25 this action.

26 19. Venue for this action properly lies in the Superior Court for the State of
27 California in and for the County of Sacramento pursuant to §§ 393(b) and 401 of the Code
28 of Civil Procedure.

1 **BACKGROUND AND STATUTORY SCHEME**

2 20. The California Unemployment Insurance Program is part of a joint federal-
3 state program established the Social Security Act (42 U.S.C. §§ 501 *et seq.*), Federal
4 Unemployment Tax Act (FUTA) (26 U.S.C. §§ 3301 *et seq.*), and California
5 Unemployment Insurance Code § 101.14. The purpose of the program is to ensure that
6 individuals may receive prompt payment of temporary income replacement benefits while
7 unemployed due to no fault of their own. As a state partner, California, through the LWDA
8 and EDD, receives funding from the United States Department of Labor for the purpose of
9 administering the regular unemployment insurance program, the federal extended
10 unemployment insurance program, the federal emergency unemployment insurance
11 program, disaster assistance unemployment insurance programs, and the pandemic
12 unemployment insurance program as well as various programs under the WIOA.

13 21. As a federal partner, and recipient of federal funding, Respondents are
14 required to operate all programs under the auspices of the Social Security Act and FUTA,
15 as well as WIOA in a manner that ensures equal access, and specifically in a manner that
16 ensures that individuals with LEP or who are Deaf or hard of hearing have meaningful
17 access to the programs and services provided by EDD. (Title VI of the Civil Rights Act of
18 1964, 42 U.S.C. § 2000d and its implementing regulations; Workforce Innovation and
19 Opportunity Act (WIOA), Section 188, 29 U.S.C. § 3248, and its implementing regulations,
20 29 C.F.R Part 38.)

21 22. As California state agencies and agency officials, Respondents are required
22 to operate all programs in a manner that ensures equal access, and specifically in a manner
23 that ensures meaningful access to all EDD programs and services to individuals who are
24 linguistically marginalized or deaf or hard of hearing. (California Gov. Code §§11135 *et*
25 *seq.*, and the Dymally-Alatorre Bilingual Services Act (Gov. Code §§ 7290 *et seq.*)
26 Covered individuals for whom equal access is required includes limited English proficient
27 (LEP) persons as that term is used in 29 C.F.R. Part 38.4(hh); U.S. Department of Labor,
28 Office of the Secretary, Civil Rights Center; Enforcement of Title VI of the Civil Rights

1 Act of 1964; Policy Guidance to Federal Financial Assistance Recipients Regarding the
2 Title VI Prohibition Against National Origin Discrimination Affecting Limited English
3 Proficient Persons, 68 Fed Reg. 32290, 32293 (May 29, 2003).

4 23. Respondents are required to develop and implement a Nondiscrimination
5 Plan ensuring EDD's compliance with the nondiscrimination and equal opportunity
6 requirements of 29 C.F.R. § 38.5 regarding race, color, religion, sex (including pregnancy,
7 childbirth, and related medical conditions, transgender status, and gender identity), national
8 origin (including limited English proficiency), age, political affiliation or belief, citizenship,
9 or participation in programs administered by EDD for which they receive federal funding.
10 (29 CFR 38.54(c)(2)(iv).)

11 24. California is a linguistically diverse state, with 44% of Californians speaking
12 a language other than English at home; 18% with limited English proficiency; one in five
13 people with low literacy; and 12% of adults having a hearing-related disability. (U.S.
14 Census Bureau, American Community Survey Language Spoken at Home by Ability to
15 Speak English, Estimates. 2015 – 2019 American Community Survey.)

16 25. According to the 2019 American Community Survey, the top fifteen non-
17 English languages spoken by working age adults in California are: Spanish, Cantonese,
18 Mandarin, Vietnamese, Tagalog, Korean, Armenian. Arabic, Farsi, Punjabi, Russian,
19 Japanese, Hindi, Khmer (Cambodian), and Thai. Significant numbers of California
20 residents seeking EDD services speak these languages.

21 26. Despite its obligation to do so, EDD did not provide equal access to
22 linguistically marginalized communities to the benefits and programs it administers. For
23 example:

- 24 a. Access to the online portal to apply for all benefit programs is available only
25 in English and Spanish; but is repeatedly referred to as the fastest or best
26 way to apply for unemployment benefits and pandemic related income
27 replacement programs.
- 28 b. Paper applications for benefit programs are only accepted for submission in

English and Spanish.

- c. Pre-pandemic, filing by phone was the only access point for linguistically marginalized claimants wishing to apply for benefits or make inquiries about their claims, but were inadequate to handle all applications in a timely manner. To the extent there was some in-person access to walk-in sites, the ability to receive services was inconsistent and with limited language accessibility.
- d. During the pandemic, access to all phone lines, including the dedicated languages lines, was prevented due to excessive demand, and linguistically marginalized claimants were often disconnected or, if able to connect, were routed to an EDD representative who could not provide appropriate language assistance.
- e. The required, bi-weekly certification could be completed only in English and Spanish.
- f. EDD implemented an identity verification system handled by a third-party vendor that initially lacked the ability to provide direct online services in any language other than English and with some inconsistency, in Spanish. As a result, non-English speakers were disproportionately required to undergo secondary procedures, including video interviews which could take weeks to schedule, in order to verify their identity and begin their claims.
- g. Requests for language assistance were denied, misrouted, or delayed, particularly for languages other than Spanish.
- h. Vital documents requesting additional information, notifying claimants of a disqualification or overpayment, and providing critical information about claims filing requirements were not and are not provided to claimants in languages other than English or Spanish. Documents that have been translated are often not used and, to the extent they are available on the EDD website or through the online portal, are difficult to find and use.

- 1 i. “Babel notices” are short notices in multiple languages appended to English
2 language forms to inform the reader, in their own language, that the
3 communication contains vital information, and explaining how to access
4 language services to have the contents of the communication provided in
5 other languages. Despite their wide use by other California agencies, Babel
6 notices were not included in communications to Petitioners and their non-
7 English speaking clients when notified of critical information regarding the
8 claims process, or their individual claims.
- 9 j. EDD has not established an effective and reliable method for recording a
10 claimant’s language preference and ensuring that it is accessible to and used
11 by all departments and personnel that might come in contact with the
12 claimant.
- 13 k. EDD has contracted with, and continues to contract with, third-party vendors
14 to provide identity verification services, benefits payment services and other
15 essential services to UI claimants, but those third parties have not been
16 consistently providing interpretations services, and/or translating vital
17 documents for linguistically marginalized claimants.
- 18 l. Although EDD does have a language access plan, it did not ensure that
19 individuals with LEP were not excluded from participation in, denied the
20 benefits of, subjected to discrimination in the administration of or in
21 connection with services provided by EDD.

22 27. As a result of these fundamental failures in the system, many linguistically
23 marginalized claimants have had no option but to pay third parties, so called “notarios,”
24 brokers, and others to assist them with their claims. Many of these third parties take a
25 percentage of the claimants’ benefits, charge a per document fee of \$10 or more. Most lack
26 any formal training in UI programs. This has resulted in errors in claims, due to no fault of
27 the claimant. Additionally, these unscrupulous actors who have taken advantage of the
28 language barriers, inserted themselves as intermediaries between claimants and EDD, and

1 exploited claimants by diverting benefits, and submitting fraudulent claims.

2 **FIRST CAUSE OF ACTION**

3 **Writ of Mandate for Failure to Comply with Title VI**

4 28. Petitioners incorporate and reallege paragraphs 1-XX of the petition as
5 though fully set out herein.

6 29. Respondents, as recipients of federal funds in connection with the
7 administration of the UI program, have a ministerial and mandatory duty to provide
8 “meaningful access” to individuals such as petitioners, petitioners’ members and or clients,
9 as well other members of the general public LEP who seek such services from the EDD.

10 30. Pursuant to Title VI and its applicable regulations and guidance documents,
11 (42 U.S.C. § 2000d; 28 C.F.R. § 42.101 *et seq.*; 28 C.F.R. § 42.401 *et seq.*; U.S.
12 Department of Labor, Office of the Secretary, Civil Rights Center; Enforcement of Title VI
13 of the Civil Rights Act of 1964; Policy Guidance to Federal Financial Assistance Recipients
14 Regarding the Title VI Prohibition Against National Origin Discrimination Affecting
15 Limited English Proficient Persons. 68 Fed Reg. 32290 (May 29, 2003)), meaningful access
16 includes, but is not limited to:

- 17 a. Free and *timely* oral interpretation during any interaction where agency staff
18 are providing vital information;
- 19 b. Language services at counters and other public areas;
- 20 c. Written translation of vital documents and other materials using qualified
21 translators (specifically rejecting reliance on machine translation like Google
22 Translate);
- 23 d. Posting of signs notifying users of the availability of interpreters;
- 24 e. Translation of key content on the website;
- 25 f. Training of staff; and
- 26 g. Monitoring of complaints

27 31. EDD has failed to comply with many of these requirements for all covered
28 language groups in California.

1 32. Petitioners are beneficially interested in having EDD perform these
2 ministerial and mandatory duties and have standing to bring this petition, as it seeks a writ
3 of mandate raising a question of public right, and the object of the writ is to procure the
4 enforcement of a public duty by EDD.

5 33. Petitioners and others have suffered a loss or delay of benefits or services as
6 a result of EDD's failure to comply with these mandatory duties and have no adequate
7 remedy at law to ensure that EDD complies with its duty to fully comply with the language
8 access requirements of Title VI.

9 34. Respondents' failure to fully comply with its ministerial and mandatory
10 duties, in the absence of any adequate remedy at law, justifies the issuance of a writ of
11 mandate compelling Respondents to comply with Title VI requirements.

12 **SECOND CAUSE OF ACTION**

13 **Writ of Mandate for Failure to Comply with WIOA Regulations**

14 35. Petitioners incorporate and reallege paragraphs 1-XX of the petition as
15 though fully set out herein.

16 36. Respondents, like other states and state officials and workforce agencies, as
17 a condition of its federal funding under WIOA, have a ministerial and mandatory duty to
18 comply with all provisions in the Act, and its implementing regulations, including those
19 addressing equity and language access found at 29 CFR Part 38.

20 37. Section 188 of the WIOA (29 U.S.C. 3248) prohibits discrimination on the
21 basis of national origin, specifically stating that Title VI applies to WIOA funded
22 recipients.

23 38. WIOA regulations mandate that covered recipients take reasonable steps to
24 ensure meaningful access to each individual with LEP served or encountered so that
25 individuals with LEP are effectively informed about and/or able to participate in the
26 program or activity. (29 CFR Part 38.9(b).) WIOA regulations do not condition
27 compliance with requirements to provide oral language services on any numerical
28 population threshold, stating that such factors represent "a formulaic analysis [that] detracts

1 from the application of the general rule [under Title VI to take steps to provide meaningful
2 access]....” (81 Fed. Reg. 87159 (December 2, 2016).)

3 39. Mandatory “reasonable steps” as defined in 29 CFR Part 38.9(b) include, but
4 are not limited to:

- 5 a. Conducting an assessment of an LEP individual to determine language
6 assistance needs;
- 7 b. Providing oral interpretation or written translation of both hard copy and
8 electronic materials, in the appropriate non-English languages, to LEP
9 individuals;
- 10 c. Conducting outreach to LEP communities to improve service delivery in
11 needed languages;
- 12 d. Providing materials for training programs in appropriate non-English
13 languages by written translation or by oral interpretation or summarization;
14 and
- 15 e. Providing oral training content in appropriate non-English languages
16 through in-person interpretation or telephone interpretation.

17 40. WIOA regulations mandate that any language assistance services, whether
18 oral interpretation or written translation, must be accurate, provided in a timely manner, and
19 be free of charge. (29 CFR Part 38.9(d).)

20 41. WIOA regulations provide that language assistance will be considered
21 timely when it is provided at a place and time that ensures equal access and avoids the
22 delay or denial or any aid, benefit, service, or training at issue. (29 CFR Part 38.9(d).)

23 42. For languages spoken by a significant number or portion of the population
24 eligible to be served, or likely to be encountered, a recipient must translate vital information
25 in written materials into these languages and make the translations readily available in hard
26 copy, upon request, or electronically, such as on a website. (29 CFR Part 38.9(g)(1).)

27 43. Vital information means information, whether written, oral or electronic, that
28 is necessary for an individual to understand how to obtain any aid, benefit, service, and/or

1 training; necessary for an individual to obtain any aid, benefit, service, and/or training; or
2 required by law. Examples of documents containing vital information include, but are not
3 limited to applications, consent and complaint forms; notices of rights and responsibilities;
4 notices advising LEP individuals of their rights under this part, including the availability of
5 free language assistance; and letters or notices that require a response from the beneficiary
6 or applicant, participant, or employee. (29 CFR Part 38.4(t).)

7 44. WIOA regulations mandate that EDD comply with a Babel notice
8 requirement which requires that covered entities must include written notice in various
9 languages “that language assistance is available, in all communications of vital information,
10 such as hard copy letters or decisions or those communications posted on Web sites.” (29
11 CFR Part 38.9(g)(3).)

12 45. WIOA regulations mandate that once a recipient becomes aware of the non-
13 English preferred language of an LEP beneficiary, participant, or applicant for aid, benefit,
14 service, or training, the recipient must convey vital information in that language. (29 CFR
15 Part 38.9(h).)

16 46. WIOA regulations state that recipients are required to take reasonable steps
17 to provide language assistance and should develop a written language access plan to ensure
18 that LEP individuals have meaningful access. (29 C.F.R. Part 38.9(i).)

19 47. EDD did not comply with these requirements for all significant language
20 groups in California.

21 48. Petitioners are beneficially interested in having EDD perform these
22 ministerial and mandatory duties and have standing to bring this petition, as it seeks a writ
23 of mandate raising a question of public right and the object of the writ is to procure the
24 enforcement of a public duty by EDD.

25 49. Petitioners and others have suffered a loss or delay of benefits or services as
26 a result of EDD’s lack of compliance with these mandatory duties and have no adequate
27 remedy at law to ensure that EDD performs its duty to fully comply with the language
28 access requirements of the WIOA and its implementing regulations.

1 50. Respondents' failure to fully comply with its ministerial duties, in the
2 absence of any adequate remedy at law, justifies the issuance of a writ of mandate
3 compelling Respondents to comply with the requirements of the WIOA regulations.

4 **THIRD CAUSE OF ACTION**

5 **Writ of Mandate for Failure to Comply with California Government Code § 11135**

6 51. Petitioners incorporate and reallege paragraphs 1-XX of the petition as
7 though fully set out herein.

8 52. California Government Code Section 11135(a) mandates that "[n]o person in
9 the State of California shall, on the basis of race, national origin, ethnic group identification
10 or disability, be unlawfully denied full and equal access to the benefits of, or be
11 unlawfully subjected to discrimination under, any program or activity that is conducted,
12 operated, or administered by the state or by any state agency, is funded directly by the state,
13 or receives any financial assistance from the state." While similar to Title VI, Section
14 11135 was designed to be even more expansive than federal Title VI protections. (Gov.
15 Code §§ 11135, 11139, 11139.8; 2 CCR § 11154.)

16 53. Implementing regulations are found at 2 Cal. Code Regs. §§ 11161 and
17 11162 state that it is discriminatory to fail to take appropriate steps to provide "alternative
18 communication services" for individuals based on their national origin or ethnic group
19 identification, which includes linguistic characteristics. These alternative communication
20 services can include "the provision of the services of a multilingual employee or an
21 interpreter for the benefit of an ultimate beneficiary and the provision of written materials
22 in a language other than English."

23 54. As a state agency funded directly by the state, Respondent EDD is mandated
24 to comply with the provisions of Gov. Code § 11135 and its implementing regulations, and
25 Respondent Farias is responsible for ensuring that the agency and recipient of state funds
26 that she oversees complies with all state mandates.

27 55. EDD did not comply with these requirements for all significant language
28 groups in California.

1 56. Petitioners and others have suffered a loss or delay of benefits or services as
2 a result of EDD’s lack of compliance with these mandatory duties and have no adequate
3 remedy at law to ensure that EDD complies with its duty to comply with the language
4 access requirements of Gov. Code § 11135 and its implementing regulations.

5 57. Petitioners have no adequate remedy at law to compel EDD to fully comply
6 with Gov. Code § 11135, and its implementing regulations.

7 58. Respondents’ failure to fully comply with its ministerial duties, in the
8 absence of any adequate remedy at law, justifies the issuance of a writ of mandate
9 compelling Respondents to comply with Section 11135 requirements.

10 **FOURTH CAUSE OF ACTION**

11 **Writ of Mandate for Failure to Comply with Dymally-Alatorre Bilingual Services Act**

12 59. Petitioners incorporate and reallege paragraphs 1-XX of the petition as
13 though fully set out herein.

14 60. The Dymally-Alatorre Bilingual Services Act states that “[i]t is the intention
15 of the Legislature in enacting this chapter to provide for effective communication between
16 all levels of government in this state and the people of this state who are precluded from
17 utilizing public services because of language barriers.” (Gov. Code § 7291.) The Act
18 mandates that state agencies provide translated materials (Gov. Code § 7295.2) and make
19 qualified bilingual employees available (Gov. Code § 7293) to assist residents seeking
20 services for any language where a “substantial number” of the population is served by the
21 agency.

22 61. Individuals who speak Spanish and are not able to effectively communicate
23 in English comprise a substantial number of the people served by EDD, statewide and at
24 many of EDD’s local offices.

25 62. Petitioners are informed and believe that individuals who speak Cantonese,
26 Mandarin, Vietnamese, Tagalog, Korean, and Armenian may comprise a substantial
27 number of the people served by EDD, statewide or at one or more of EDD’s local offices or
28 facilities. Petitioners are further informed that individuals who speak Arabic, Farsi,

1 Punjabi, Russian, Japanese, Hindi, Khmer (Cambodian), and Thai, as well as other
2 languages, may comprise a substantial number of the people served by EDD at one or more
3 of EDD's local offices or facilities.

4 63. EDD has not complied with these mandates for all language groups, other
5 than English and to some degree in Spanish, in California that comprise a substantial
6 number of the people served by EDD statewide, or at their local offices.

7 64. Petitioners and others have suffered a loss or delay of benefits or services as
8 a result of EDD's lack of compliance with these mandatory duties and have no adequate
9 remedy at law to ensure that EDD complies with its duty to fully comply with the language
10 access requirements of the Dymally-Alatorre Bilingual Services Act.

11 65. Petitioners have no adequate remedy at law to compel EDD to fully comply
12 with the Dymally-Alatorre Bilingual Services Act.

13 66. Respondents' failure to fully comply with its ministerial duties, in the
14 absence of any adequate remedy at law, justifies the issuance of a writ of mandate
15 compelling Respondents to comply with Dymally-Alatorre Bilingual Service Act
16 requirements.

17 **PRAYER FOR RELIEF**

18 67. Petitioners pray for relief as follows:

- 19 a. That a judgment and peremptory writ of mandate issue, ordering
20 Respondents to comply with its mandatory duties and to implement the
21 requirements of Title VI, the WIOA regulations, Government Code § 11135,
22 and Dymally-Alatorre Bilingual Services Act and henceforth take the steps
23 outlined below or show cause why it should not be required to do so:
- 24 i. Implement measures now and in its modernization of EDD's
25 computerized claim system for early identification and recording of
26 UI claimants' spoken, signed, and written language preferences;
- 27 ii. Implement measures now and in its modernization of EDD's
28 computerized claim system to provide linguistically marginalized

- 1 communities with meaningful access to apply for and process their
2 claims for UI benefits;
- 3 iii. Implement measures now to provide timely spoken and signed
4 language services in a claimant's requested language during
5 communications with UI claimants;
- 6 iv. Implement measures now to increase and ensure equitable telephonic
7 access for a wide range of linguistically marginalized communities;
- 8 v. Implement measures now and in its modernization of EDD's
9 computerized claim system to provide and expand written
10 translations of vital information to be transmitted directly to UI
11 claimants after modernization, placed on the EDD website, and to be
12 utilized and organized on a multilingual portal in the meantime;
- 13 vi. Implement measures to conduct targeted outreach to linguistically
14 marginalized communities and engage community organizations to
15 assist in expanding access to available UI programs and services;
- 16 vii. Implement measures to ensure appropriate staffing to coordinate
17 EDD's multilingual access services, provide technical assistance to
18 EDD staff, and monitor the provisions of multilingual access
19 services;
- 20 viii. Implement measures necessary to ensure that all UI-claimant facing
21 third-party vendors provide effective and timely language services,
22 including providing interpreters and written translation of vital
23 information to UI claimants;
- 24 ix. Implement measures to seek input from a cross section of
25 representatives for linguistically marginalized communities to
26 provide community review and comments on EDD's language access
27 measures, and advise EDD on issues affecting California's diverse
28 workforce;

- 1 x. Implement procedures to ensure that all individuals providing
2 interpretation or translation services are qualified to provide language
3 services in the languages for the groups they serve;
4 xi. Implement data collection and internal monitoring measures to
5 oversee multilingual access to the UI program including regarding
6 language preferences of UI claimants, phone usage by UI claimants
7 by language, complaints, and first time pay promptness by language;
8 xii. Revise the EDD Language Access Plan to include policies that
9 ensure meaningful multilingual access services.
- 10 b. That the Court direct that Respondents file a return to the writ of mandate in
11 the form of annual confirmations that it is in compliance with any reporting
12 or monitoring obligations ordered by the Court, for a period of three (3)
13 years from entry of the writ.
- 14 c. That the Court award reasonable attorneys' fees and costs of suit in the
15 amount of \$100,000.
- 16 d. For such other and further relief as the court may deem just and proper.

17
18 DATED: February 28, 2022 Respectfully submitted,

19 LEGAL AID FOUNDATION OF LOS ANGELES

20 By: _____

21 Joann Lee, Attorney for Petitioner LAFLA
22 Yolanda Arias, Attorney for Petitioner LAFLA

23 CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

24 By: _____

25 Marisa Lundin, Attorney for Petitioner Silvia Hernandez
26 Cynthia Rice, Attorney for Petitioner Silvia Hernandez

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ASIAN AMERICANS ADVANCING JUSTICE –
ASIAN LAW CAUCUS

By: _____
Winifred Kao, Attorney for Petitioners AAAJ-ALC and CAA

CENTER FOR WORKERS’ RIGHTS

By: _____
Daniela Urban, Attorney for Petitioner CWR

LEGAL AID AT WORK

By: _____
Katherine Wutchiett, Attorney for Petitioner Silvia Hernandez

1 **VERIFICATION**

2 I, Silvia Argueta, state that:

- 3 1. I am the Executive Director of the Legal Aid Foundation of Los Angeles.
- 4 2. I have read the foregoing Petition for Writ of Mandate and know its contents.
- 5 3. I certify that the factual allegations contained in the Petition related to Petitioners
- 6 are true of my own personal knowledge, except as to those allegations made on information
- 7 and belief, in which case I believe them to be true.

8

9 I declare under penalty of perjury that the above is true and correct. Executed on

10 February 28, 2022, at Los Angeles, California.

11

12 _____

13 Silvia Argueta

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EXHIBIT 2

**STIPULATION FOR ENTRY OF JUDGMENT AND
ISSUANCE OF WRIT OF MANDATE
(CODE CIV. PROC. § 1085)**

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7 CALIFORNIA RURAL LEGAL ASSISTANCE, INC.
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11 Telephone: (661) 854-3839

12 Attorneys for Petitioner SILVIA HERNANDEZ

13 [Additional Counsel Listed on Next Page]

14 **SUPERIOR COURT OF CALIFORNIA**
15 **COUNTY OF SACRAMENTO**

16 LEGAL AID FOUNDATION OF LOS)
ANGELES; SILVIA HERNANDEZ; ASIAN)
17 AMERICANS ADVANCING JUSTICE –)
ASIAN LAW CAUCUS; CENTER FOR)
18 WORKERS’ RIGHTS; and CHINESE FOR)
AFFIRMATIVE ACTION,)

19 Petitioners,)
20)

21 v.)

22 CALIFORNIA EMPLOYMENT)
DEVELOPMENT DEPARTMENT,)
and NANCY FARIAS, in her official capacity)
23 as Director, California Employment)
Development Department,)
24)

25 Respondents.)
26)
27)
28)

Case No.:

Assigned to the Honorable

**STIPULATION FOR ENTRY OF
JUDGMENT AND ISSUANCE OF
WRIT OF MANDATE
(CODE CIV. PROC. § 1085)**

Date:

Time:

Dept:

1 CONTINUED ATTORNEYS FOR PETITIONERS:

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9 CAUCUS; CHINESE FOR AFFIRMATIVE ACTION

10 CENTER FOR WORKERS' RIGHTS

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16 Attorneys for Petitioner CENTER FOR WORKERS' RIGHTS

17 LEGAL AID AT WORK

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21 San Francisco, CA 94104-4244

22 Telephone: 415-864-8848

23 Attorneys for Petitioner SILVIA HERNANDEZ

STIPULATION FOR ENTRY OF JUDGMENT AND WRIT OF MANDATE

Petitioners Legal Aid Foundation of Los Angeles (LAFLA), Silvia Hernandez, Asian Americans Advancing Justice – Asian Law Caucus (ALC), Center for Workers’ Rights (CWR), and Chinese for Affirmative Action (CAA) (collectively, Petitioners) and Respondents California Employment Development Department (EDD) and Nancy Farias (Farias), in her official capacity as Director of the EDD (collectively, Respondents) hereby stipulate, through their counsel of record, that:

RECITALS

1. Petitioners served and filed their verified Petition for Writ of Mandate (the Petition) on _____; and

2. Petitioners are an individual with limited English proficiency (LEP) and organizations serving and/or providing representation to members of linguistically marginalized communities, who have or will access or attempt to access services administered by the Respondents in connection with the unemployment insurance program, and have a beneficial interest in the resolution of this action, individually and in the public interest; and

3. Respondents are responsible for the administration of the unemployment insurance programs, in compliance with the provisions and mandates of the California Unemployment Insurance Code (Unemp. Ins. Code § 316), Gov. Code §§ 11135, *et seq.*, the Dymally-Alatorre Bilingual Services Act (Gov. Code §§ 7290, *et seq.*), the Federal Unemployment Insurance Tax Act (26 U.S.C. §§ 3301), the federal Social Security Act (42 U.S.C. §§ 503, *et seq.*, the Workforce Innovation and Opportunity Act (29 U.S.C. §§ 3101, *et seq.*), and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d)), and all regulations and guidance documents relevant to those provisions, and the EDD receives and expends funds from the United States Department of Labor, and the State of California for the administration of the unemployment insurance program; and

4. As set out in more detail in their verified Petition, Petitioners allege that Respondents have not complied with their obligations and contend that:

- 1 a. Under federal and state law, Respondents are prohibited from denying any person
2 full and equal access to the benefits of, or unlawfully subjecting persons to
3 discrimination under the unemployment insurance program, including by failing to
4 take appropriate steps to provide alternative communication services and to ensure
5 meaningful access to each individual with LEP; and are required to ensure that
6 individuals with LEP are effectively informed about and/or able to participate in the
7 program or activity, including but not limited to making qualified bilingual
8 employees available to assist individuals seeking services, providing a qualified
9 interpreter in any language spoken by individuals seeking services, and translating
10 vital information;
- 11 b. The individual Petitioner, persons served or represented by the organizational
12 Petitioners, other non-English speaking persons have been denied access to
13 unemployment insurance program services, and other non-dominant language users,
14 who seek information about, or attempt to apply for or participate in the
15 unemployment insurance program, need written, in-person or telephone and
16 computer-based contact with employees or agents of the EDD, and must be able to
17 communicate in their primary language in order to gain access to the program;
- 18 c. Among working-age adults in California, 46% speak a non-dominant language, 18%
19 have limited English proficiency, and 12% have a hearing-related disability.
20 Statewide and/or in local offices or facilities providing unemployment insurance
21 program services, it is estimated that Respondents have contact with substantial and
22 significant numbers of persons who do not speak or write English at all, or have
23 only limited spoken English proficiency, and that for the following languages the
24 number of persons seeking services in each language is substantial and significant:
25 Spanish, Chinese (Cantonese and Mandarin), Vietnamese, Tagalog, Korean and
26 Armenian. Additionally, for the following languages the number of persons seeking
27 services in that language is significant and increasing: Arabic, Farsi, Punjabi,
28 Russian, Japanese, Hindi, Mon-Khmer (Cambodian), and Thai; and

1 d. Respondents have a clear, present, and ministerial duty to provide services under the
2 unemployment insurance program in a manner that creates meaningful access to the
3 individuals who speak a language other than English.

4 5. Respondents acknowledge their obligation to provide meaningful language access
5 but deny petitioners' allegations as set forth in the Petition, and deny that they have acted
6 contrary to applicable laws and obligations; and

7 6. Respondents and Petitioners agree that it is in the interest of all the parties, and the
8 general public to resolve the allegations in the Petition, and have entered into the Settlement
9 Agreement attached hereto as Exhibit A; and therefore,

10 **STIPULATION**

11 7. Through their counsel of record, Petitioners and Respondents agree and stipulate,
12 that judgment be entered resolving all issues alleged in the Petition for Writ of Mandate as
13 to the Petitioners, the individuals they represent, and the general public; that Judgment may
14 be entered in favor of Petitioners in the form of the Proposed Judgment attached as Exhibit
15 B, and that a Writ of Mandate be issued by this Court consistent with the terms of that
16 Settlement Agreement in the form of Exhibit C.

17 IT IS SO STIPULATED.

18 Dated: February , 2022

LEGAL AID FOUNDATION OF LOS ANGELES
CALIFORNIA RURAL LEGAL ASSISTANCE, INC.
ASIAN AMERICANS ADVANCING JUSTICE –
ASIAN LAW CAUCUS
CENTER FOR WORKERS' RIGHTS
LEGAL AID AT WORK

22 By: _____
23 Joann H. Lee, Legal Aid Foundation of Los Angeles
24 Attorneys for Petitioners

25 Dated: February , 2022

ROB BONTA
Attorney General of California
BENJAMIN G. DIEHL
Deputy Attorney General

28 By: _____
Attorneys for Respondents

EXHIBIT 3

[PROPOSED] STIPULATED JUDGMENT

1 LEGAL AID FOUNDATION OF LOS ANGELES
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12 Attorneys for Petitioner SILVIA HERNANDEZ

13 [Additional Counsel Listed on Next Page]

14 **SUPERIOR COURT OF CALIFORNIA**
15 **COUNTY OF SACRAMENTO**

16 LEGAL AID FOUNDATION OF LOS)
ANGELES; SILVIA HERNANDEZ; ASIAN)
17 AMERICANS ADVANCING JUSTICE –)
ASIAN LAW CAUCUS; CENTER FOR)
18 WORKERS’ RIGHTS; and CHINESE FOR)
AFFIRMATIVE ACTION,)

19 Petitioners,)
20)

21 v.)

22 CALIFORNIA EMPLOYMENT)
DEVELOPMENT DEPARTMENT,)
and NANCY FARIAS, in her official capacity)
23 as Director, California Employment)
Development Department,)
24)

25 Respondents.)
26)
27)
28)

Case No.:

Assigned to the Honorable

**[PROPOSED] STIPULATED JUDGMENT
IN FAVOR OF PETITIONERS**

Date:

Time:

Dept:

1 CONTINUED ATTORNEYS FOR PETITIONERS:

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STIPULATED JUDGMENT

The Court, having read and considered all papers, pleadings, and documents on file, the parties having stipulated to entry of judgment, and good cause appearing therefore, IT IS ORDERED, ADJUDGED, AND DECREED that:

- 1. Judgment is entered in favor of Petitioners Legal Aid Foundation of Los Angeles (LAFLA), Silvia Hernandez, Asian Americans Advancing Justice – Asian Law Caucus (ALC), Center for Workers’ Rights (CWR), and Chinese for Affirmative Action (CAA);
- 2. The Petition for Writ of Mandate is granted, and Writ of Mandate shall be entered in the form stipulated to by the parties, and attached as Exhibit C to the parties’ stipulation for entry of judgment, which the clerk is ordered to enter forthwith;
- 3. This Court shall retain jurisdiction over this matter until April 30, 2024, pursuant to the terms of the parties’ settlement agreement; and
- 4. Petitioners are awarded \$100,000 for their attorneys’ fees and costs. Except as otherwise expressly provided herein and in the parties’ settlement agreement, each party shall otherwise bear their own costs and fees.

IT IS SO ORDERED.

Dated: , 2022

Honorable
JUDGE OF THE SUPERIOR COURT

EXHIBIT 4

**[PROPOSED] STIPULATED WRIT OF MANDATE
(CODE CIV. PROC. § 1085)**

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14 **SUPERIOR COURT OF CALIFORNIA**
15 **COUNTY OF SACRAMENTO**

16 LEGAL AID FOUNDATION OF LOS)
ANGELES; SILVIA HERNANDEZ; ASIAN)
17 AMERICANS ADVANCING JUSTICE –)
ASIAN LAW CAUCUS; CENTER FOR)
18 WORKERS’ RIGHTS; and CHINESE FOR)
AFFIRMATIVE ACTION,)

19 Petitioners,)

20 v.)

21 CALIFORNIA EMPLOYMENT)
22 DEVELOPMENT DEPARTMENT,)
and NANCY FARIAS, in her official capacity)
23 as Director, California Employment)
Development Department,)

24 Respondents.)
25)
26)
27)
28)

Case No.:

Assigned to the Honorable

**[PROPOSED] STIPULATED WRIT OF
MANDATE (CODE CIV. PROC. § 1085)**

Date:

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Dept:

1 CONTINUED ATTORNEYS FOR PETITIONERS:

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1 **TO RESPONDENTS CALIFORNIA EMPLOYMENT DEVELOPMENT**
2 **DEPARTMENT (EDD) AND ITS DIRECTOR NANCY FARIAS, IN HER**
3 **OFFICIAL CAPACITY (RESPONDENTS):**
4

5 The Court, having read and considered all papers, pleadings, and documents on file,
6 good cause appearing therefore, and pursuant to the stipulation between petitioners Silvia
7 Hernandez, Legal Aid Foundation of Los Angeles (LAFLA), Asian Americans Advancing
8 Justice – Asian Law Caucus (ALC), Center for Workers’ Rights (CWR), and Chinese for
9 Affirmative Action (CAA) (collectively, Petitioners, and, together with Respondents, the
10 Parties) on the one hand and Respondents on the other, a writ of mandate now issues from
11 the Court.

12 NOW THEREFORE Respondents are hereby commanded to:

13 (a) **Definitions:** For purposes of this writ of mandate, the following definitions shall
14 apply:

15 i. “Additional Languages” means the top eight to fifteen non-English and
16 non-Primary Languages used by limited English proficient adults in
17 California according to the most recent American Community Survey by
18 the United States Census Bureau.

19 A. At the time this Agreement was executed, the eight additional
20 languages are: Arabic, Farsi, Punjabi, Russian, Japanese, Hindi,
21 Mon-Khmer (Cambodian), and Thai.

22 ii. “Ad Hoc Interpreter” means an untrained and untested bilingual person
23 who is providing informal interpreter support, typically a family member
24 or friend of the person with limited English proficiency.

25 iii. “Babel Notice” means a short notice included in multiple languages
26 informing the claimant that the communication contains vital
27 information and explaining how to access language services to have the
28 contents of the communication provided in other languages.

- 1 iv. “Compliance Period” means the period of time EDD has to meet its
2 obligations under the Agreement, which continues through April 2024
3 unless the parties agree to an extension in writing.
- 4 v. “Interpreting” means using spoken or signed language to transmit a
5 message from one language into another while preserving the meaning,
6 register, and tone of the message.
- 7 vi. “Limited English Proficient” (LEP) means individuals who do not speak
8 English as their primary language and who have a limited ability to read,
9 write, understand, or speak English.
- 10 vii. “Linguistically Marginalized Community” means groups whose
11 members use any non-dominant spoken or sign language and are not
12 fully proficient in the dominant language (spoken English in the United
13 States), such as Indigenous Latin American or Deaf communities.
- 14 viii. “Linguistic Variant” means a distinct form of a language used by people
15 from a specific community or region.
- 16 ix. “Modernization” refers to the “Re-Imagined Benefits System
17 Modernization” (RBSM) that will enhance business processes by making
18 it customer-centric, adding functionalities such as multi-language and
19 replacing technology.
- 20 x. “Multilingual Access Portal” means the section of EDD’s website that
21 synthesizes critical website content and features all translated vital
22 unemployment insurance documents.
- 23 xi. “Plain Language” is language that the intended audience, including
24 individuals with limited English proficiency, can readily understand and
25 use because that language is concise, well-organized, and follows other
26 best practices of Plain Language writing.
- 27 xii. “Primary Languages” means the top seven non-English languages used
28 by limited English proficient adults in California according to the

1 relevant American Community Survey by the United States Census
2 Bureau.

3 A. At the time the parties entered into their settlement agreement,
4 the relevant American Community Survey was issued in 2019.

5 Based on the 2019 American Community survey:

6 I. The top seven written languages are Spanish, traditional
7 Chinese, simplified Chinese, Vietnamese, Tagalog,
8 Korean and Armenian.

9 II. The top seven spoken languages are Spanish, Cantonese,
10 Mandarin, Vietnamese, Tagalog, Korean, and Armenian.

11 B. Going forward, the relevant American Community Survey will
12 be the most current at the time the Language Access Plan is
13 updated.

14 xiii. “Qualified Bilingual Staff” means a member of EDD’s staff who has
15 passed a formal linguistic proficiency assessment in the target language.

16 xiv. “Qualified Interpreter” means a person with oral or signing proficiency
17 in their working languages, knowledge of professional practices, and
18 adherence to an interpreter’s code of ethics, who has been determined to
19 be qualified by a formal certifying body.

20 xv. “Qualified Translator” means a person with written proficiency in their
21 working languages, knowledge of professional practices, and adherence
22 to a translator’s code of ethics, who has been determined to be qualified
23 by a formal certifying body.

24 xvi. “Substantial Compliance” means compliance that satisfies the essential
25 requirements of the Agreement, but which may be something less than
26 strict and literal compliance with every provision of this Agreement and
27 includes compliance involving deviations from the terms of the
28 Agreement, provided any such deviations do not substantially defeat the

objective which the parties intend to accomplish, or to impair the structure of the Agreement as a whole.

xvii. “Third-Party Vendor” means a business entity that has contracted with EDD for the provision of services in a public-facing capacity as to a UI Claimant.

xviii. “Translation” means using written language to transmit text from one language into another while preserving the meaning, register, and tone of the message.

xix. “UI Claimant” “or “Claimant” means an individual who contacts EDD to seek information, applies for, or receives unemployment insurance benefits, including those listed on [EDD Types of Claims](#) (*see* Attachment A), provided by EDD.

xx. “Vital Information” means information, whether written, oral or electronic, that is necessary for an individual to understand how to obtain any aid, benefit, service, and/or training or is required by law. Examples of documents containing vital information include, but are not limited to applications; consent and complaint forms; notices of rights and responsibilities; notices advising LEP individuals of their rights, including the availability of free language assistance; rulebooks; written tests that do not assess English language competency, but rather assess competency for a particular license, job, or skill for which English proficiency is not required; and letters or notices that require a response from the beneficiary or applicant, participant, or employee.

(b) **Early Identification and Record of Language Needs:**

- i. By January 1, 2022, EDD shall develop and implement its processes for capturing UI Claimant spoken language preferences through its online application portal.
- ii. By January 30, 2022, EDD shall develop a policy for the early

- 1 identification and recording of spoken language needs for UI Claimants.
- 2 iii. By March 1, 2022, EDD shall include on its website and the multilingual
- 3 website portal, when it becomes available, a statement on the early
- 4 identification and recording of spoken language needs for UI Claimants
- 5 on its online portal.
- 6 iv. By June 1, 2022, each application for UI benefits shall contain a section
- 7 asking UI Claimants to identify their preferred written and spoken or
- 8 signed languages to be kept in the individual's UI claims record.
- 9 A. UI Program Staff accessing the UI Claimant's record shall check
- 10 the UI Claimant's spoken language needs before calling the
- 11 Claimant and provide appropriate language services through the
- 12 life of a claim.
- 13 v. By June 30, 2022, EDD shall reference the policy and processes
- 14 delineated in this section in its Language Access Plan (LAP).

15 (c) **Interpreting (Oral and Signed) Provided in All Languages:**

- 16 i. By January 1, 2022, EDD must provide oral and signed language UI
- 17 services in real time by Qualified Interpreters or Qualified Bilingual
- 18 Staff.
- 19 A. EDD staff who process unemployment claims and interact
- 20 directly with UI Claimants ("UI Program Staff") shall have
- 21 access to the UI Claimant's identified preferred spoken language
- 22 as described in paragraph (b) in accordance with the timelines
- 23 described therein.
- 24 ii. By January 1, 2022, if UI Program Staff cannot obtain interpretation in
- 25 the Claimant's language and Linguistic Variant in real time after good
- 26 faith efforts to acquire language services, EDD shall ensure that the UI
- 27 Claimant receives a return telephone or relay call in the UI Claimant's
- 28 language, and if applicable, in a compatible Linguistic Variant, within a

1 reasonable timeframe, as defined below, of the original contact with
2 EDD.

3 A. A reasonable timeframe includes up to five (5) business days,
4 which may be extended if EDD documents a reasonable, good
5 faith written explanation for the additional time needed to secure
6 preferred signed or spoken language in a compatible Linguistic
7 Variant and provides notice to the UI Claimant verbally, or in
8 writing when practicable. For purposes of providing notice in this
9 situation, EDD shall exercise best efforts to identify and
10 communicate in the UI Claimant's secondary language, or
11 otherwise in English.

12 I. If after the 5th business day, Petitioners contend the
13 explanation provided by EDD was not reasonable or in
14 good faith, Petitioners may initiate the meet and confer
15 process provided for under paragraph (p).

16 II. As part of Modernization efforts, EDD shall develop and
17 implement processes to provide written notice in this
18 situation to the UI Claimant in the Primary Languages
19 and Additional Languages.

20 B. EDD shall maintain a written record of providing language
21 services under this requirement if such services are provided by
22 Third-Party Vendors.

23 C. EDD shall contract with language service providers to meet the
24 language needs of Linguistically Marginalized Communities,
25 including Deaf service providers for signed language interpreting,
26 as well as contracts with language service providers that interpret
27 languages of lesser diffusion such as Indigenous languages of
28 Latin America, consistent with state contracting rules. UI

1 Program Staff shall have direct access to the language services
2 available pursuant to this section.

3 D. EDD shall use best efforts to identify appropriate interpreting
4 services, including confirming that an interpreter and UI
5 Claimant use a compatible Linguistic Variant. If a UI Claimant
6 rejects a specific interpreter due to incompatible Linguistic
7 Variant or other concerns about interpreter competency, EDD
8 shall find a suitable replacement.

9 iii. By January 1, 2022, upon a UI Claimant's request, EDD's Qualified
10 Bilingual Staff or staff through a Qualified Interpreter shall read EDD
11 documents and notices aloud to the UI Claimant in their preferred
12 language – even after obtaining a written Translation – and in a
13 compatible Linguistic Variant, within a reasonable timeframe of the
14 request, if such interpreting is not available in real time after good faith
15 efforts to find an interpreter.

16 A. A reasonable timeframe includes up to five (5) business days,
17 which may be extended if EDD documents a reasonable, good
18 faith written explanation for the additional time needed to secure
19 preferred signed or spoken language in a compatible Linguistic
20 Variant and provides notice to the UI Claimant verbally, or in
21 writing when practicable. For purposes of providing notice in this
22 situation, EDD shall exercise best efforts to identify and
23 communicate in the UI Claimant's secondary language, or
24 otherwise in English.

25 I. If after the 5th business day, Petitioners contend the
26 explanation provided by EDD was not reasonable or in
27 good faith, Petitioners may initiate the meet and confer
28 process provided for under paragraph (p).

1 II. As part of Modernization efforts, EDD shall develop and
2 implement processes to provide written notice in this
3 situation to the UI Claimant in the Primary Languages
4 and Additional Languages.

5 B. EDD staff shall not rely on interpreters to summarize or simplify
6 documents or provide explanations to Claimants.

7 iv. EDD staff working with UI Claimants shall comply with EDD's "Call
8 Transfer Policy, as revised March 2021 (Call Policy) and will not rely on
9 Ad Hoc Interpreters or translators.

10 v. By June 30, 2022, EDD shall establish or update any policies necessary
11 to carry out the requirements herein and incorporate the policies
12 discussed in this section during the next update of the LAP.

13 (d) **Increasing Telephonic Access for Linguistically Marginalized**
14 **Communities:**

15 i. By December 1, 2022, EDD shall provide dedicated phone lines for
16 unemployment insurance claims in the Primary Languages in an effort to
17 provide consistent wait times across all phone lines, without reducing the
18 number of existing UI dedicated language phone lines. More
19 specifically, EDD will add UI dedicated language phone lines to include
20 the remaining Primary Languages: Korean, Tagalog, and Armenian.

21 ii. By June 30, 2022, EDD shall develop a policy and train UI Program
22 Staff on how to ensure that all UI dedicated language phone lines are
23 utilized for speakers of the dedicated language.

24 A. EDD shall provide language-specific pre-recorded messages to
25 instruct non-target language speakers to disconnect and call the
26 appropriate UI phone number.

27 B. UI Program Staff shall only communicate with callers on the
28 dedicated language phone lines in the target language.

1 C. UI Program Staff shall be trained and directed to re-route callers
2 to the appropriate UI phone line if they do not speak the language
3 of the dedicated language phone line.

4 D. UI Program Staff shall be trained and directed to not
5 unnecessarily direct a UI Claimant who calls the English line and
6 speaks a Primary Language to the dedicated language lines,
7 rather than using interpreting services on the English line.

8 E. EDD will continue to make efforts to increase the staffing and
9 interpretation support on all of its UI phone lines.

10 iii. During the Compliance Period, EDD's EEO Officer or designee will
11 continue to accept requests, as many as fifty (50) per week, for language
12 services from community-based and legal advocacy organizations who
13 are assisting members of Linguistically Marginalized Communities with
14 accessing EDD administered benefits.

15 A. EDD will inform Petitioners if requests for language services
16 exceed fifty (50) per week.

17 iv. By June 30, 2022, EDD shall update and incorporate the policies
18 discussed in this section during the next update of the LAP.

19 (e) **Expanding Written Translations of Materials:**

20 i. By December 1, 2022, EDD shall translate all static, non-personalized
21 documents containing unemployment insurance Vital Information into
22 Primary Languages and Additional Languages.

23 A. Such Translations shall be performed by qualified human
24 Translators.

25 B. As forms are translated, prior to the December 1, 2022
26 implementation date, EDD may make them publicly available.

27 C. Such documents shall be integrated into all Modernization efforts
28 and implemented at the earliest feasible point of the

1 Modernization process that would enable the mass generation of
2 translated personalized documents in the Primary Languages and
3 Additional Languages.

4 D. A claimant may request written translation by phone, in writing,
5 or electronic correspondence through channels EDD provides. A
6 claimant may request translated materials throughout the life of
7 the claim, even if a UI Claimant did not initially identify a
8 preferred language other than English.

9 E. If a UI Claimant's written language is not among the Primary and
10 Additional Languages, upon the Claimant's request, EDD shall
11 provide the Claimant with Translation or Interpreting of Vital
12 Information in their preferred language.

13 ii. By June 30, 2024, and at least every three years thereafter, EDD will
14 review, evaluate, and update the list of Primary and Additional
15 Languages in which to provide written Translations of Vital Information.

16 A. In determining how many languages to add to the definition of
17 Additional Languages, EDD may consider various data sources,
18 including, but not limited to, the United States Census Bureau,
19 including the American Community Survey, data collected by
20 state and local government agencies, feedback from community-
21 based organizations (CBOs), and EDD's own data tracking
22 measures, such as the number of UI claimants who reported their
23 preferred spoken language (broken down by language) and the
24 numbers of those seeking Translation or Interpreting through
25 Third Party Vendors (broken down by languages).

26 I. When EDD becomes able to send written materials in
27 more languages post-Modernization, EDD may also
28 consider the number of UI Claimants who reported their

1 preferred written language (broken down by language).

2 B. During the intervening three years, EDD may evaluate language
3 services provided through language services provided by Third
4 Party Vendors to determine if Vital Information should be
5 translated into other additional languages (beyond the Primary
6 and Additional Languages). This determination may include an
7 evaluation of the costs and savings, if any, and the level of effort
8 associated with the Translation among other considerations.

9 C. If EDD determines to add additional languages, no existing
10 Primary or Additional Languages shall be removed or replaced.

- 11 iii. All applicable translated documents described in this section shall be
12 readily available on EDD's website via the multilingual web portal.
- 13 iv. EDD shall include a Babel Notice, indicating in appropriate languages
14 that language assistance is available, in all communications of Vital
15 Information to UI Claimant. The languages in the Babel Notice shall
16 include Primary Languages and Additional Languages, and other
17 languages.
- 18 v. By April 1, 2024, EDD shall translate its UI Online interface and paper
19 application for unemployment insurance benefits in the Primary
20 Languages.

21 (f) **Extending Deadlines Due to Language Barriers and Good Cause:**

- 22 i. By March 1, 2022, if EDD's provision of language services unduly
23 delays an individual's receipt of services or benefits, the individual's
24 time to meet EDD's deadlines shall be extended for the period of time
25 necessary to receive the language services.

26 A. Any time required to secure and convey language services,
27 including oral and signed interpreting services and Translations,
28 shall not be counted against applicable UI Claimant deadlines to

1 respond to the content of the EDD communication, including the
2 backdating of a claims filing date to the date that the UI Claimant
3 first attempted to file the claim and provided EDD with notice of
4 the need for language services under the principles of good cause.

5 B. By March 1, 2022, EDD shall provide Petitioners with a draft of
6 its policy articulating the good cause principle for tolling
7 response deadline for the provision of Translation or Interpreting,
8 consistent with AB 138 (2021). EDD may engage in rulemaking,
9 for example, pursuant to 1 CCR § 100, if needed to implement
10 the legislation.

11 C. By March 1, 2022, EDD shall implement its policy articulating
12 the good cause principle for tolling response deadline for the
13 provision of Translation or Interpreting, consistent with AB 138
14 (2021). EDD may engage in rulemaking, for example, pursuant
15 to 1 CCR § 100, if needed to implement the legislation.

16 ii. By June 30, 2022, EDD shall establish or update any policies necessary
17 to carry out the requirements herein and incorporate the policies
18 discussed in this section during the next update of the LAP.

19 (g) **Developing Multilingual Access Portal:**

20 i. By February 1, 2024, EDD shall establish and host a Primary Language
21 Multilingual Access Portal housing Vital Information related to UI.

22 ii. EDD will provide information on the availability of language services
23 prominently on EDD's website, specifically the appropriate phone
24 number or phone numbers for individuals to contact when seeking
25 multilingual unemployment insurance services in their preferred written
26 or spoken language.

27 iii. By December 1, 2022, translated notices and other vital documents shall
28 be made available on EDD's website organized and translated by

1 language.

2 A. EDD will provide information on the availability of language
3 services prominently on EDD's website and provide a link and
4 explanation on the homepage of a UI Online claimant's account.

5 B. Vital Information, not including notices and other documents, on
6 EDD's website regarding UI shall be adapted to Plain Language
7 before Translation and made accessible via the Multilingual
8 Access Portal.

9 (h) **Community Outreach to Linguistically Marginalized Communities:**

10 i. By March 1, 2022, EDD shall conduct targeted outreach to Linguistically
11 Marginalized Communities to solicit advice on policies and practices
12 affecting individuals who are eligible for EDD's services and benefits.

13 ii. By March 1, 2022, EDD shall market and promote its programs and
14 multi-lingual services to the general public and Linguistically
15 Marginalized Communities.

16 A. These campaigns may include integration of labor market
17 research, multilingual approaches which may include specialized
18 marketing materials, press releases, newsletters, promotional
19 videos, etc.

20 B. These campaigns may be in the Primary Languages, Additional
21 Languages, or other languages spoken by linguistically
22 marginalized communities based on demonstrated community
23 need, community request, or stakeholder input.

24 C. By January 30, 2022, EDD will identify staff or vacant positions
25 within EDD who will be responsible for leading the
26 Linguistically Marginalized Communities outreach effort.

27 D. Within ninety (90) days of the appropriate staff person being
28 hired or identified, EDD shall develop a written outreach plan on

1 how to conduct outreach to Linguistically Marginalized
2 Communities. The plan shall include: steps necessary to create
3 and translate written materials; potential organizations or
4 community members with whom EDD can contract and/or
5 partner; identify methods of distribution of outreach materials;
6 and Third-Party Vendors or internal staff who can assist with
7 outreach materials.

8 iii. By March 1, 2022, EDD will establish a grant program lasting at least
9 two years to fund a selected number of CBOs to provide outreach and
10 education to linguistically marginalized communities.

11 (i) **Multilingual Access Officer & Unit and UI Program Staff Training:**

12 i. By March 1, 2022, EDD shall employ a full-time multilingual access
13 officer (Officer) and multilingual access unit to coordinate EDD's
14 multilingual access services, provide technical assistance to EDD staff,
15 and monitor the provision of multilingual access services.

16 A. By January 30, 2022, EDD will begin recruitment of the Officer.

17 ii. EDD shall provide to UI Program Staff and their direct supervisors
18 training on EDD's Call Policy by January 1, 2022, or for new hires,
19 within sixty (60) days of their starting work or before they are assigned
20 to answer or make calls to UI Claimants, whichever is later.

21 A. EDD shall maintain a record of the date each member of the UI
22 Program Staff is trained.

23 I. Upon request, Petitioners will be provided a copy of the
24 training materials, redacted if necessary, and/or
25 aggregated training records.

26 iii. EDD shall provide ongoing internal support, such as technical support
27 and follow-up training annually, to trained UI Program Staff.

28 iv. By June 30, 2022, EDD shall update and incorporate the policies in this

section during the next update of the LAP.

(j) **Modernization:**

- i. EDD's permanent processes for capturing and utilizing language information is a priority that shall be developed, integrated, and implemented during and as part of EDD's Modernization. This should include exploration of entirely new, different, or parallel systems that can effectively capture and utilize spoken, signed, and written language preferences and that can produce mass generation of translated personalized notices transmitted directly to Claimants of the UI, DI, and PFL programs.
- ii. For Modernization, EDD shall draft a bid for proposal that is consistent with the terms of this Agreement. EDD shall not contract for services or products that will not accommodate language services as detailed in this Agreement.
- iii. By June 30, 2022, EDD shall develop a plan on how Modernization will accommodate the language services detailed in this Agreement. That plan shall include:
 - A. How Modernization will enable early identification and record of claimant language needs will be integrated into Modernization.
 - B. How Modernization will include the technological capacity to track written language preferences and develop and implement the integration of systems to transmit written translations of non-static, personalized Vital Information directly to claimants. These processes must account for and allow language groups being added and removed, depending on need.
- iv. Until Modernization is completed, EDD may continue to explore temporary solutions to meet the language obligations in this Agreement, including but not limited to parallel operating systems that are not

1 dependent on the existing technological limitations.

2 v. Within six months of EDD completing Modernization, all forms and
3 documents containing Vital Information shall be generated in the
4 Primary Languages and transmitted directly to UI Claimants consistent
5 with Claimants' preferences.

6 A. A UI Claimant's request for translated written materials applies
7 for the life of the claim.

8 B. An English version of communications provided directly to UI
9 Claimants shall be sent to the UI Claimant on their online
10 account, if they have one.

11 C. EDD shall develop procedures, policy, and communications for
12 such languages as delineated in paragraph (b) as to written
13 language information.

14 D. EDD shall in the future consider the integration of additional
15 languages for all forms and documents containing Vital
16 Information transmitted directly to UI Claimants, consistent with
17 paragraph (e)(i)(c).

18 (k) **Third-Party Vendors:**

- 19 i. EDD shall provide identified UI Claimant language information to Third
20 Party Vendors, post application, as needed to ensure proper in-language
21 communication with UI Claimants about their claims by UI Claimant-
22 facing Third-Party Vendors. EDD shall also require UI Claimant-facing
23 Third-Party Vendors to develop and implement policies to continually
24 identify each Claimant's language needs throughout the Third-Party
25 Vendor's service on the claim, consistent with all timelines stated herein.
- 26 ii. All prospective UI Claimant-facing Third-Party Vendors who contract
27 with EDD will be required to provide language access to communities
28 with limited English proficiency consistent with the terms and conditions

1 referenced in Attachment B and other applicable federal and state non-
2 discrimination mandates as sub-recipients of federal and state funding.

- 3 iii. By March 1, 2022, for current contracts with UI Claimant-facing Third-
4 Party Vendors, with a remaining contract term of 6 months or more,
5 where the contract is amended for its term, money, or other amendment
6 basis, EDD will revisit those contract terms with the Vendors with the
7 purpose of renegotiating those contracts to adhere to the terms and
8 conditions referenced in Attachment B to their Settlement Agreement
9 and other applicable federal and state non-discrimination mandates as
10 sub-recipients of federal and state funding.

11 A. During this process of revisiting contracts, EDD will reinforce to
12 all UI Claimant-facing Third-Party Vendors that they are subject
13 to existing obligations under federal and state non-discrimination
14 mandates as sub-recipients of federal and state funding.

15 B. EDD will offer to all UI Claimant-facing Third-Party Vendors
16 with current contracts access to its language service providers for
17 the remainder for the contract term.

- 18 iv. Contracts with Third-Party Vendors that are language service providers
19 should contain, at a minimum, provisions that ensure that the provider
20 will instruct interpreters to: abide by confidentiality; commit to a code of
21 ethics followed by the organization's interpreters; and receive training
22 and ongoing demonstration of qualifications to serve in the role of
23 interpreter.

24 (l) **Formation of Multilingual Access Advisory Board:**

- 25 i. EDD shall oversee the establishment of a Multilingual Access Advisory
26 Board (MAAB), within 180 days of EDD completing its staffing the
27 Language Access Office, to provide input and community review of
28 multilingual materials, provide comments to EDD's language access

1 plan, and advise EDD on issues affecting Californians with limited
2 English proficiency who are eligible for EDD services and benefits.

3 ii. Within 90 days of being employed, the Officer shall create a plan and
4 structure for the MAAB's governance and membership, with input from
5 Petitioners. That plan shall reflect the requirements below:

6 A. The MAAB shall consist of members who serve for limited terms
7 on a rotating basis including a cross section of representatives for
8 linguistically marginalized communities.

9 I. The majority of the MAAB shall consist of members who
10 are not currently employed by the State of California.

11 B. The MAAB shall include one or more Petitioners in the initial
12 and subsequent term.

13 C. The MAAB shall meet at least once every two months.

14 D. The MAAB shall facilitate proactive community feedback and
15 data, including from Deaf service providers and organizations
16 serving Linguistically Marginalized Communities in both urban
17 and rural areas of the state.

18 E. Members of the MAAB will have the ability to participate in
19 agenda setting and suggest issues to be discussed and addressed
20 by the MAAB.

21 (m) **Complaint Process:**

- 22 i. EDD shall continue to maintain a transparent complaint process for
23 applicants with limited English proficiency that is accessible by
24 electronic or paper filing for UI Claimants. In addition to verbally
25 submitted complaints, UI Claimants may file written complaints via
26 email or U.S. mail on a complaint form (available in the Primary and
27 Additional Languages) or as a generalized written complaint.
28 ii. EDD's procedure for complaints filed by UI Claimants shall continue to

1 comply with statutory requirements established by WIOA regulations, at
2 29 CFR 38.69 through 38.85 and the Dymally-Alatorre Bilingual
3 Services Act.

4 (n) **Data Collection and Internal Monitoring:**

- 5 i. By March 1, 2022, EDD shall engage in regular data collection,
6 monitoring, and oversight of multilingual access unemployment
7 insurance services, including the following:
- 8 A. Language preferences of UI Claimants, including which language
9 services for Qualified Interpreters were requested and provided
10 by Third Party Vendors.
 - 11 B. Phone usage by UI Claimants by spoken language, including, but
12 not limited to: caller's preferred spoken language; wait times to
13 be connected to a Qualified Interpreter through a Third Party
14 Vendor, if the Third Party Vendor has the ability to capture such
15 information; unanswered calls that do not make it into the call
16 answer queue on each dedicated language line; disconnections
17 and dropped calls on each dedicated language line; average queue
18 volumes on each dedicated language line; length of time taken for
19 call backs by language where language services are provided by a
20 Third Party Vendor not in real-time, including any reasonable,
21 good faith written explanations for delays referenced in
22 paragraphs (c)(ii)(A) and (c)(iii)(A); and staffing levels on each
23 of the dedicated language lines.
 - 24 C. The number of complaints related to language access that were
25 filed by language, the nature of those complaints, and how those
26 complaints were resolved.
 - 27 D. The processing times for first time payment promptness of UI
28 claims by language.

1 (o) **Reporting:**

2 i. During the Compliance Period, EDD shall provide a written report to
3 Petitioners about the completion of the steps outlined in this Agreement
4 on a quarterly basis, with the first report due on June 1, 2022.

5 ii. During the Compliance Period, if requested by Petitioners, the Parties
6 shall meet on a semi-annual basis to discuss the EDD's efforts to
7 implement this Agreement and to attempt to resolve any disputes
8 regarding its implementation or enforcement. A meeting shall be
9 scheduled with no fewer than 30 days notice and within 60 days of the
10 request.

11 iii. During the Compliance Period, if requested by Petitioners, EDD shall
12 provide the following records or written information on a semi-annual
13 basis (i) any information used or reports prepared as part of paragraph
14 (n); (ii) invoices for use of Interpreting and Translation by Third-Party
15 Vendors; (iii) contracts with Third-Party Vendors as delineated in
16 paragraph (k); (iv) all English and translated Vital Information
17 documents provided to UI Claimants; (v) phone usage data as delineated
18 in paragraph (n)(i)(B); (vi) training materials and records demonstrating
19 compliance with the training requirements delineated in paragraph (i);
20 (vii) staffing plans and staff vacancy reports regarding the Multilingual
21 Language Access Office; and (viii) updates on the status of language
22 access planning within the SDI and PFL programs.

23 A. EDD will redact any personal information of UI claimants or
24 EDD employees from any documents provided to Parties.

25 iv. During the Compliance Period, EDD shall maintain written records of
26 and, beginning March 1, 2023, report annually to Petitioners the total
27 number of applications and UI Claimants, including the preferred spoken
28 language.

1 A. If the capturing of preferred written language becomes available
2 through Modernization during the Compliance Period, EDD shall
3 also track and report annually to Petitioners the total number of
4 applications and UI Claimants by preferred written language of
5 the applicant or Claimant during the Compliance Period.

6 B. EDD shall track and, beginning March 1, 2023, report annually to
7 Petitioners the Third-Party Vendor expenditures – excluding staff
8 costs – specifically appropriated by the 2021 Budget Change
9 Proposal on language access.

10 v. By July 1, 2022, EDD shall report to the legislative budget and policy
11 committees on the status of multilingual access services to be delivered
12 to individuals participating in the SDI and PFL programs.

13 (p) **Dispute Resolution and Enforcement:**

- 14 i. The court shall retain jurisdiction for the purpose of enforcing the terms
15 of the writ of mandate.
- 16 ii. Prior to bringing an enforcement proceeding, the Parties shall comply
17 with the terms of the Dispute Resolution process agreed to in the
18 Settlement Agreement attached as “Exhibit A” to STIPULATION FOR
19 ENTRY OF JUDGMENT AND ISSUANCE OF WRIT OF
20 MANDATE.

21
22 Beginning March 1, 2023, Respondents shall file a return to the writ of mandate in
23 the form of annual confirmations that EDD is in compliance with any reporting or
24 monitoring obligations ordered by the Court, for the duration of the Compliance Period, as
25 that term is defined above.

26 This matter is hereby remanded to you to take further action as specified above.

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LET THE FOREGOING WRIT ISSUE.

WITNESS the Honorable _____, Judge of the Superior Court.

ATTEST MY HAND AND SEAL OF THE SACRAMENTO COUNTY SUPERIOR COURT.

Dated: _____

CLERK OF THE SUPERIOR COURT

ATTACHMENT A

Types of Claims

The Unemployment Insurance (UI) program provides temporary payments to individuals who are unemployed through no fault of their own and meet all other [eligibility requirements](#). Visit the [File a UI Claim](#) page for more information on filing online, by phone, or by mail/fax. Below are the different types of UI claims that can be filed:

Regular Unemployment Insurance

These claims are based on wages earned from employers covered by the California UI Code and paid from the UI fund. The claim is based on California wages paid in specific quarters.

Pandemic Unemployment Assistance

These claims are part of the new [federal provisions](#) that help unemployed Californians who are not usually eligible for state UI benefits. This includes business owners, self-employed workers, independent contractors, and those with a limited work history who are out of business or have significantly reduced their services as a direct result of the COVID-19 pandemic.

Unemployment Compensation for Federal Employees

These claims provide unemployment compensation to former or partially unemployed federal civilian employees. A federal civilian employee may have worked for the United States Postal Service or the Internal Revenue Service. These claims are funded by the Federal government and are subject to regular state eligibility requirements.

Unemployment Compensation for Ex-Service Members

This program provides unemployment compensation to former service members upon release from active military service. These claims are also funded by federal funds and are subject to regular state eligibility requirements.

Joint Claims

A joint claim is a claim using base period earnings of more than one type, e.g., federal civilian wages, federal military wages, and regular state-covered wages. These claims are based on both California wages and federal wages.

Interstate

These claims can be filed in California against earnings from another state. For example, an unemployed New Yorker who just moved to California will file an "interstate claim."

Combined Wage

These claims are based on wages earned in two or more states.

Training Extensions

These claims provide eligible [California Training Benefit \(CTB\)](#) claimants with additional benefits beyond their regular claim. The CTB program allows eligible claimants who lack competitive job skills to receive their benefits while attending an approved training/retraining program.

[Trade Readjustment Allowances](#)

These claims provide additional federally funded benefits for workers who are eligible for the Trade Adjustment Assistance (TAA) program under the Trade Act of 1974. Before an individual can apply for TAA benefits or apply for a Trade Readjustment Allowance, the United States Department of Labor must certify that increased imports or a shift in production to foreign countries contributed to the worker's unemployment. Workers must be enrolled in or have completed an approved training course in order to receive these benefits, unless the training requirement is waived.

[Work Sharing](#)

This program allows for the payment of UI benefits to employees of participating employers whose hours and wages have been reduced. These claims are considered an alternative to layoffs.

[Partial](#)

This program enables employers to retain trained staff during slow business periods. Employees are then available for full-time employment as business improves. Employers may use the partial program if employees are temporarily working reduced hours or have been placed on layoff status for no more than two consecutive weeks. Employees who are laid off due to lack of work for more than two consecutive weeks must claim benefits in the usual manner and meet regular UI requirements.

[Disaster Unemployment Assistance](#)

This federal program provides financial assistance and employment services to dislocated workers and the self-employed when they are unemployed as a direct result of a major natural disaster.

[School Employee Claims](#)

These claims are for those individuals who work or provide services for a public or private non-profit school employer. A school employee (unless stated otherwise) is also a school supportive employee. These are employees who are employed by a non-profit or public entity employer and who provide services to, or on behalf of an educational institution.

School employee claims have distinctive eligibility requirements. For example, a school employee may not be eligible to receive benefits if all the following occur:

1. A claim is filed during a recess period.
2. Only school wages are in the base period of the claim.
3. There is an offer to return to work for a school employer when the recess period ends.

ATTACHMENT B

The Contractor shall ensure that Unemployment Insurance customers with Limited English Proficiency (LEP) have meaningful access and equal opportunity to participate in its services.

The Contractor shall provide services under this contract, which may include, but are not limited to oral and written language translation. Communication with customers shall occur, and could take the following methods: telephone, email, online portal, or in person.

If the Contractor provides services by telephone or in person, the Contractor shall employ or contract with a language support services vendor or vendors capable of providing oral language services and communications in at least the following languages: English, Spanish, Armenian, Tagalog, Cantonese, Mandarin, Vietnamese, and Korean. The Contractor's language support services vendor(s) shall be approved by the EDD. The Contractor shall bear its own costs associated with its language support services vendor(s).

If the Contractor, or its support services vendor(s), cannot obtain interpretation in the customer's preferred spoken language at the time of the call, Contractor shall work with the Contract Monitor to determine if the EDD has another resource for the specified language and interpretation.

If the Contractor, or its support services vendor(s), cannot obtain interpretation in the customer's language at the time of the call after good faith efforts to acquire language services, Contractor shall ensure that the customer receives a return telephone or relay call in the customer's preferred spoken language, within a reasonable timeframe of the original contact with Contractor.

If the Contractor provides services by email or online portal, on or after December 1, 2022, the Contractor shall employ or contract with a language support services vendor(s) capable of providing written translation of all static, non-personalized documents containing unemployment insurance Vital Information in the following languages which include, but are not limited to: English, Spanish, Armenian, Tagalog, Simplified and Traditional Chinese, Vietnamese, Korean, Arabic, Farsi, Punjabi, Russian, Japanese, Hindi, Khmer, and Thai. The Contractor's language support services vendor(s) shall be approved by the EDD. The Contractor shall bear its own costs associated with its language support services vendor(s).

The Contractor, or its support services vendors, shall not rely on ad hoc interpreters or translators (untrained and untested bilingual persons who are providing informal interpreter support). Language translators shall meet the minimum standard of qualifications as outlined in the solicitation documents.

Upon a customer's request, the Contractor, or its support services vendor(s), shall read EDD documents and notices aloud to customers in their preferred language within a reasonable timeframe of the request. Contractor shall not rely on interpreters to simplify documents or provide explanations to a customer.

The Contractor, or its support services vendor(s), will ensure interpreters and translators abide by professional interpreter and translator ethics, including confidentiality, impartiality, and accuracy; and will have received professional training and provide an ongoing demonstration of qualifications to serve in the role of interpreter and/or translator.