

Making Sure WIOA Works for Populations with Barriers to Employment:

California's Obligations and Opportunities in Serving Immigrant and Refugee Jobseekers

*Adapted with permission from materials originally created by the Michigan Office of New Americans
and Michigan Talent Investment Agency.*

Smart design benefits all customers

- The federal Workforce Innovation and Opportunity Act (WIOA) helps ensure that jobseekers can contribute their skills in California's economy, and local employers can benefit from Californians' talent
- Improving access to WIOA is an example of **customer-centered design** that can help **all** workforce system customers – whether immigrants or American-born

A workforce system that works for populations with barriers to employment

- Many kinds of jobseekers can face barriers to employment, including:
 - Individuals who are returning from incarceration
 - Veterans
 - People with disabilities
 - Youth aging out of the foster-care system
 - English language learners

Ensuring that the workforce system is responsive to individual customers' needs will benefit *all* jobseekers, regardless of their specific circumstances

Let's get practical: How does this work?

- As American Job Centers of California (AJCC), California Employment Development Department (EDD), and workforce board staff, **you have the power** to ensure that our state benefits from the talents and abilities of all jobseekers, including immigrants, refugees, and English Language Learners
- This guide will provide you with resources and guidance to answer common questions
- An important component of workforce services is coordination and partnership with other WIOA core programs, including WIOA Title II adult education programs and those funded under California's Adult Education Program.

California is required by law to serve eligible immigrants, refugees, and English Language Learners

- Every federal program, including the Workforce Innovation and Opportunity Act (WIOA) has its own individual eligibility requirements.
- But every federally funded program *also* has obligations under the Civil Rights Act of 1964 and related federal policy guidance to refrain from discrimination against otherwise-eligible individuals on the basis of national origin (that is, whether they were born outside the United States), or Limited English Proficiency (LEP).

All WIOA-funded providers are subject to federal nondiscrimination requirements

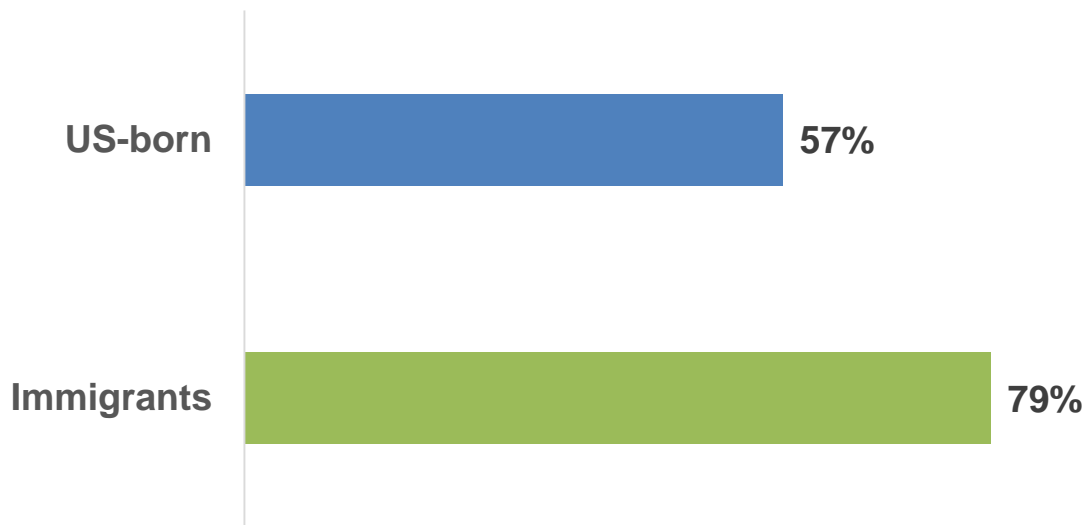
- Local workforce boards, American Job Centers of California, and *all* other organizations that are recipients of federal funds are obligated to meet federal nondiscrimination requirements.
- Failure to meet these requirements can expose providers to legal liability for violation of federal civil rights law, as in the case of [Almendares v. Palmer](#) (2003).

Resources for complying with legal requirements about nondiscrimination

- Specific information on assessing individuals' eligibility for WIOA services and ensuring compliance with nondiscrimination provisions can be found in the California Employment Development Department Directive [WSD 17-01](#), Nondiscrimination and Equal Opportunity Procedures; Directive [WSD 17-03](#), Limited English Proficiency; and Directive [WSD 18-03](#), Pathway to Services, Referral, and Enrollment.
- The full Workforce Innovation and Opportunity Act (Pub. L. 113-128) Section 188 Nondiscrimination and Equal Opportunity Regulations are available at [29 CFR Part 38](#).
- Federal guidance on nondiscrimination under WIOA is available from the US Department of Labor at <https://www.dol.gov/crc/188rule/> and via Training and Employment Notice [20-16](#).
- General resources on serving Limited English Proficient individuals are available at www.LEP.gov.

Who are California's immigrants?

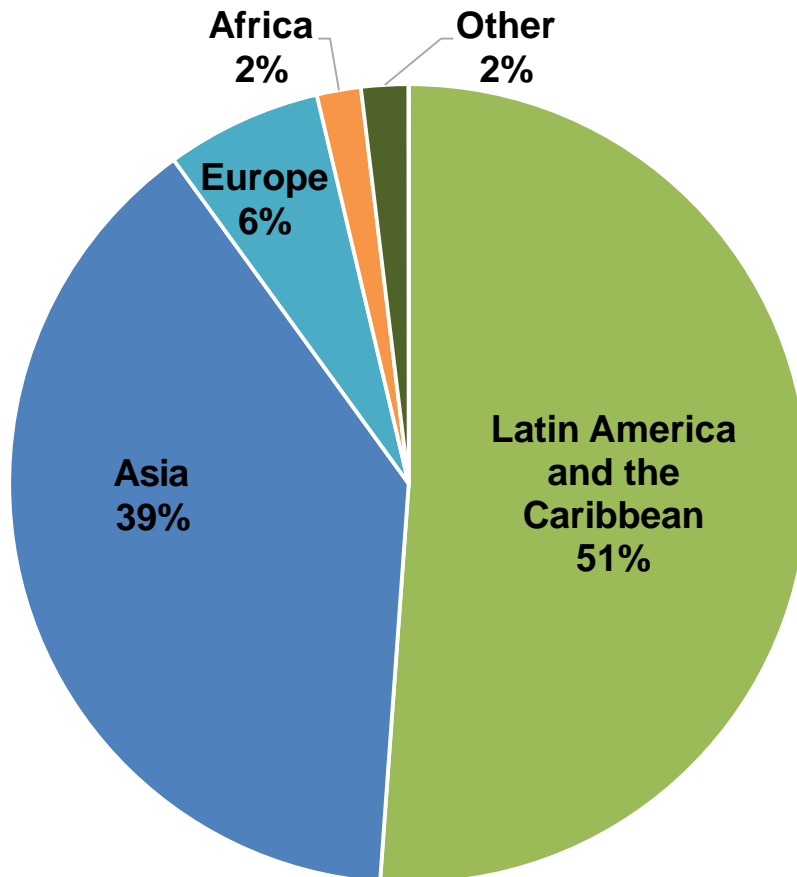
- There are 10.7 million immigrants in California, representing 27% of the total population
- Immigrants are more likely to be working-age, compared to American-born Californians.



A note about terminology: While the Census Bureau uses the technical term “foreign born,” for ease of reading this document uses the more recognizable term “immigrants” when describing Census data.

Data source: Migration Policy Institute analysis of US Census Bureau, American Community Survey 2016 1-year estimates.

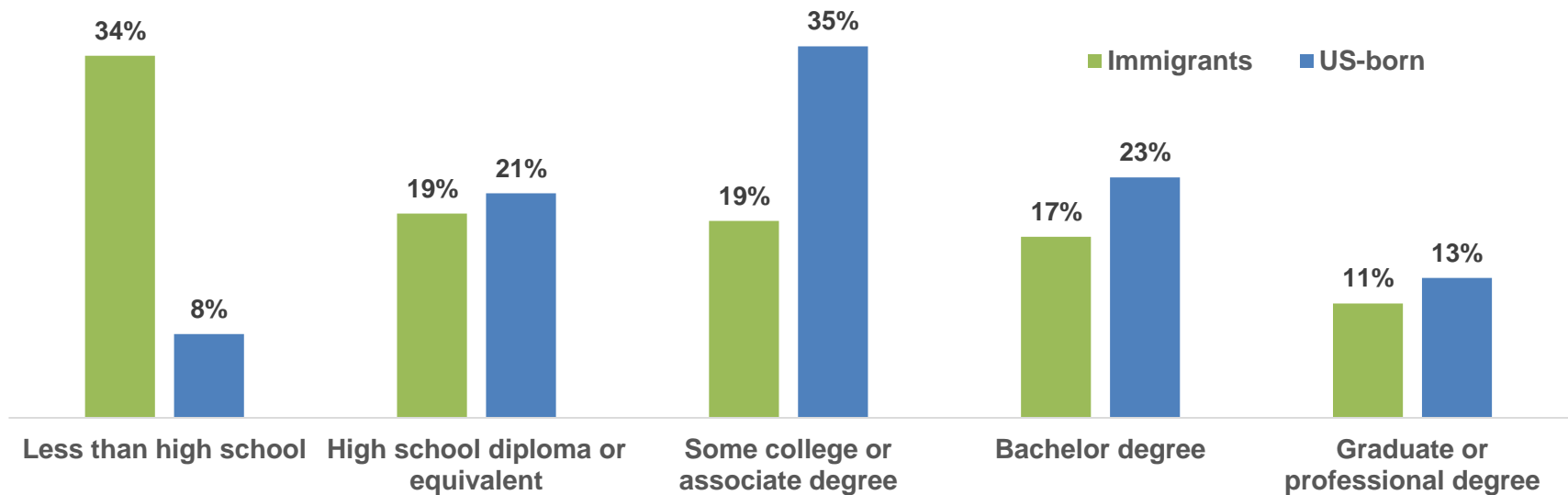
California's immigrants are primarily from Asia, Latin America, and the Caribbean



*Other includes Australia, Canada, and New Zealand, as well as outlying islands.
Data source: Migration Policy Institute analysis of US Census Bureau, American Community Survey 2016 1-year estimates.*

California's immigrants have varying levels of education

- Compared to their US-born peers, immigrants in California are more likely not to have finished high school
- But more than 1 in 4 California immigrants have a bachelor's degree or higher



Effective career pathways are important for all Californians

- Ensuring that jobseekers and workers have access to career pathways with multiple entry and exit points is a key activity under WIOA
- Like their fellow California residents, immigrants and refugees can be at any point along a career pathway, including:
 - Jobseekers searching for an entry-level job
 - Incumbent workers ready to earn an additional credential and advance in their careers
 - Out-of-school youth seeking to get back on track towards their career goals
 - Displaced homemakers ready to refresh their skills and re-enter the workforce
 - Dislocated workers starting a new chapter after a plant closure or other mass layoff
 - Under-employed workers trying to escape the “brain waste” of a low-wage job that does not draw on their full talents and abilities
 - Farmworkers seeking to improve their employment prospects

Enrolling participants in WIOA Title I services

- WIOA Title I participants must be age 18 at the time of registration, legally work-authorized, and registered with the Selective Service (if applicable). **Resource:** EDD Directive [WSD16-18](#), Selective Service Registration.
- To demonstrate employment authorization, potential participants can provide any of a variety of US government identity documents as outlined in the federal Form I-9. **Resource:** [Guide to Selected US Travel and Identity Documents](#) (US Immigration and Customs Enforcement).

Specific information on assessing individuals' eligibility for WIOA services can be found in EDD Directive [WSD 17-01](#), Nondiscrimination and Equal Opportunity Procedures; Directive [WSD 17-03](#), Limited English Proficiency; and Directive [WSD 18-03](#), Pathway to Services, Referral, and Enrollment.

Immigrants & WIOA performance metrics

- Immigrant and refugee jobseekers are well-positioned to meet WIOA performance requirements
- The federal government provides a mechanism known as the “statistical adjustment model” to ensure that labor-market conditions (such as a recession) and participant characteristics are taken into account when negotiating states’ annual performance targets for WIOA outcome measures
- Programs in Missouri, Pennsylvania, and California have shown that immigrant participants can meet or exceed outcomes achieved by their US-born peers

Learn more: WIOA Statistical Adjustment Model Methodology (US Department of Labor):
https://wdr.doleta.gov/directives/attach/TEGL/TEGL_26-15-Attachment-II_Acc.pdf



WIOA & DACA recipients

- Federal policy guidance affirms that immigrants who are Deferred Action for Childhood Arrivals (DACA) recipients *are* eligible for WIOA Title I services
- **Resource:** US Dept. of Labor Training & Employment Guidance Letter [\(TEGL\) 02-14](#) on DACA recipients and WIOA eligibility
- EDD Directive [WSIN17-31](#) reaffirms that DACA recipients with valid work authorization are eligible for services

WIOA & refugees

- Individuals who have been lawfully admitted to the US as refugees are always employment-authorized
- Newly arrived refugees may not yet have a full range of US government identity documents, but will typically be able to demonstrate employment authorization via an I-94 form
- Every refugee arrives in the US under the auspices of a nonprofit refugee resettlement agency. These agencies should be able to provide confirmation of a refugee's identity and employment authorization if necessary.

More on WIOA & refugees

- WIOA is the **primary federal investment** in workforce services for all populations, including immigrants and refugees
- Only a **tiny subset** of new arrivals to the United States – less than 7% each year – are also eligible for services via the federal Office of Refugee Resettlement. These services focus on rapid attachment to the workforce and do not typically include job training. (Visit the California Department of Social Services Refugee Programs [website](#) for general information about services to refugees in our state.)
- Refugees cannot be excluded from consideration for WIOA services, and cannot be required to meet additional requirements beyond those set for other jobseekers.

WIOA and Farmworkers

- WIOA Sec. 167 guides the provision of services to individuals who qualify as Migrant and Seasonal Farmworkers
- In California, these services are carried out by the EDD's [Migrant Seasonal Farmworker Outreach Program](#) and nonprofit agencies that receive grants under the National Farmworker Jobs Program (NFJP) from the U.S. Department of Labor
- Farmworkers may access services by connecting with an outreach worker, NFJP grantee, or by visiting an American Job Center of California

WIOA and English Language Learners

- English Language Learners (ELLs) are sometimes also known as Limited English Proficient (LEP) individuals
- ELLs can and should be able to access WIOA Title I services
- In some cases, ELLs may *also* be accessing WIOA Title II adult education services via English language classes or other instruction. Unlike Title I workforce services, individuals are *not* required to have employment authorization in order to participate in Title II adult education services.
- **Resources:** California Workforce Board Policy Brief: [Serving English Language Learner \(ELL\) Populations Using Best Practices and Model Programs](#); EDD Directive [WSD18-03](#) Pathway to Services, Referral and Enrollment; US Department of Labor Training & Employment Notice ([TEN 28-16](#)) on best practices in serving ELLs.

A final reminder

- Ensuring that immigrants and refugees have equitable access to WIOA services is a legal requirement, but it is also a customer-centered design issue.
- Fixing workforce system barriers for immigrants also means fixing them for American-born jobseekers.
- EDD is here to help as you improve the workforce system experience for all jobseekers, including immigrants and refugees.
- Resource: CWDB [ELL Initiatives](#) page.

Recap: National resources on serving immigrants in workforce programs

- US DOL WIOA Sec. 188 Equal Employment Opportunity regulations training materials <https://tinyurl.com/WorkforceGPS>
- [*Guide to Selected US Travel and Identity Documents*](#) (US Immigration and Customs Enforcement).
- Explanation of [refugee employment authorization via Form I-94](#) (US Citizenship and Immigration Services, 2017).
- US Department of Labor Training & Employment Notice (TEN) [28-16](#) on best practices in serving English Language Learners.
- Workforce Innovation and Opportunity Act (Pub. L. 113-128) Section 188 Nondiscrimination and Equal Opportunity Regulations: [29 CFR Part 38](#).
- Federal guidance on nondiscrimination under WIOA: US Department of Labor <https://www.dol.gov/crc/188rule/> and Training and Employment Notice [20-16](#).
- General resources on serving Limited English Proficient individuals: www.LEP.gov.

Recap: California resources on serving immigrants in workforce programs

- [*Immigrants and WIOA Services: Comparison of Socio-Demographic Characteristics of Native- and Foreign-Born Adults in California*](#) (Migration Policy Institute, 2016.) *Note: MPI has published similar fact sheets for [eight of California's largest counties](#).*
- Specific information on assessing individuals' eligibility for WIOA services and ensuring compliance with nondiscrimination provisions can be found in the California Employment Development Department Directive [WSD 17-01](#), Nondiscrimination and Equal Opportunity Procedures; Directive [WSD 17-03](#), Limited English Proficiency; and Directive [WSD 18-03](#), Pathway to Services, Referral, and Enrollment.
- CDSS Refugee Programs: <http://www.cdss.ca.gov/inforesources/Refugees>
- California Workforce Development Board Resources on Serving ELLs: <https://cwdb.ca.gov/initiatives/english-language-learners-immigration-initiatives/>
- CDSS Immigration Services: <http://www.cdss.ca.gov/Immigration-Services>