

Making Sure WIOA Works for All:

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

*Adapted with permission from materials originally created by the Office of Global Michigan
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 Indiana's economy, and local employers can benefit from Hoosiers' talent
- Improving access to WIOA is an example of **customer-centered design** that can help **all** workforce system customers – whether immigrants, refugees, or US-born

A workforce system that works for all

- 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 Indiana Department of Workforce Development (DWD), workforce development boards, and WorkOne center staff, and adult education partners, **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

Indiana 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 development boards, WorkOne centers, 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.

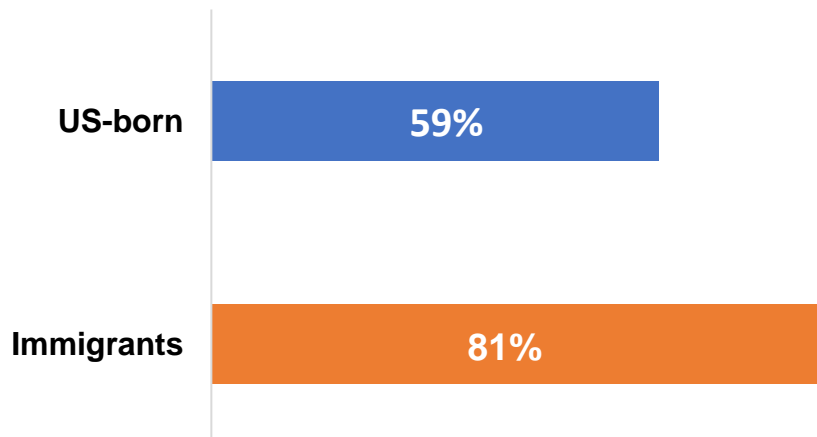
Resources for complying with legal requirements about nondiscrimination

- Specific information on assessing individuals' eligibility for WIOA services and ensuring compliance with nondiscrimination provisions can be found in DWD Policies [2016 OP EO Nondiscrimination Guidance.pdf](#); [DWD TA 2021-07: Complaint Procedures for WIOA Nondiscrimination and Equal Opportunity Provisions](#); [2017-03-PC1 Youth Eligibility Change1 \(in.gov\)](#); [DWD Policy 2021-03: Workforce Innovation and Opportunity Act \(WIOA\) Title I Adult and Dislocated Worker Program Eligibility](#)
- 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's [Workforce GPS](#) website, its [Civil Rights Center](#), and via Training and Employment Notice [20-16](#).
- General resources on serving Limited English Proficient individuals are available at www.LEP.gov.

Who are Indiana's immigrants?

- There are 379,000 immigrants and refugees in Indiana, representing 6% of the total population
- Immigrants are much more likely to be working-age, compared to US-born Indiana residents.

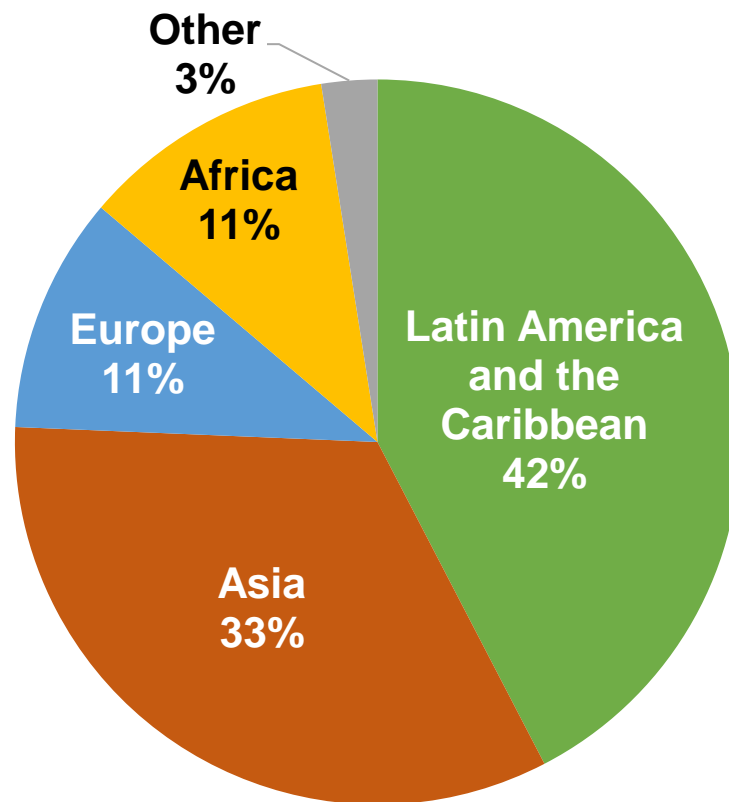
Percentage of Hoosiers who are working age (18-64):



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 2021 1-year estimates.

A majority of immigrant Hoosiers are from Latin America, the Caribbean, or Asia

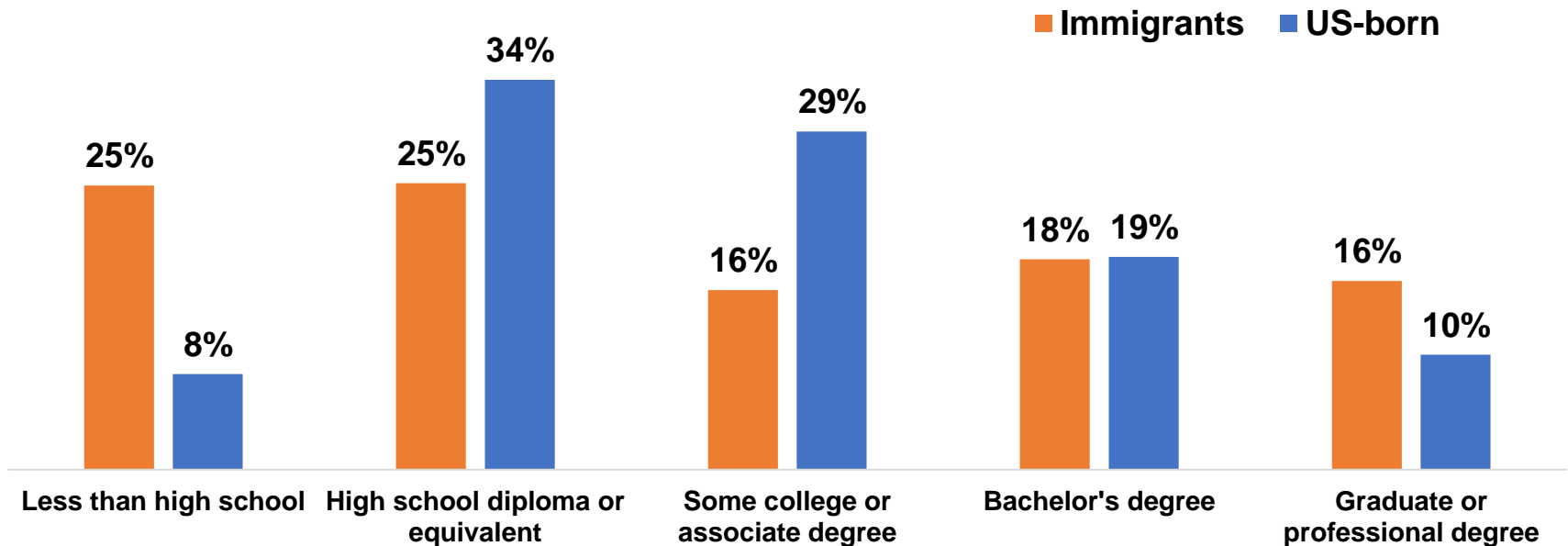


“Other” includes Australia, Canada, and New Zealand, as well as outlying islands.

Data source: Migration Policy Institute analysis of US Census Bureau, American Community Survey 2021 1-year estimates.

Indiana's immigrants and refugees have varying levels of education

- Compared to their US-born peers, immigrants in Indiana are less likely to have completed high school, but also *more* likely to have earned a graduate degree



Data source: Migration Policy Institute analysis of US Census Bureau, American Community Survey 2021 1-year estimates.
Refers to adults 25 years and older.

Effective career pathways are important for all Indiana residents

- 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 Hoosiers, 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
 - Migrant and seasonal farmworkers seeking employment assistance

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).
- 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 and ensuring compliance with nondiscrimination provisions can be found in DWD Policies [2016-0P_EO_Nondiscrimination_Guidance.pdf](#); [DWD TA 2021-07: Complaint Procedures for WIOA Nondiscrimination and Equal Opportunity Provisions](#); [2017-03-PC1 Youth Eligibility Change1 \(in.gov\)](#); [DWD Policy 2021-03: Workforce Innovation and Opportunity Act \(WIOA\) Title I Adult and Dislocated Worker Program Eligibility](#)

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
- DWD will work with WIOA system partners so that WorkOne centers and subcontractors are not unduly penalized if the customers they serve face greater barriers to success – **REWORD AS APPROPRIATE FOR YOUR PURPOSES IN INDIANA**

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

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 3% 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.
- 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 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.
- Resource: US Department of Labor Training & Employment Notice [\(TEN\) 28-16](#) on best practices in serving ELLs

WIOA and Temporary Protected Status

- In some cases, individuals living in the United States are granted Temporary Protected Status (TPS)
- This happens when the US Department of Homeland Security designates a foreign country for TPS, typically because of conditions in the country that temporarily prevent the country's nationals from returning safely
- People from that country who are living in the US may then apply for TPS, provided they meet its eligibility criteria. If granted TPS, they receive temporary work authorization

More on WIOA and TPS

- Individuals who are employment authorized via TPS **are eligible** for WIOA Title I services
- Although TPS employment authorization documents list an expiration date, in some cases the US Department of Homeland Security could grant an automatic extension of TPS, which may extend the expiration date of a person's employment authorization. Information about those extensions is [available on the USCIS website](#).

WIOA and Migrant/Seasonal Farmworkers

- Individuals who are Migrant/Seasonal Farmworkers (MSFW) [as defined in WIOA Sec. 167](#) **are** eligible for federally funded workforce services
- [National Farmworker Jobs Program](#) providers funded under WIOA Sec. 167 are key partners of the public workforce system, and provide services to eligible MSFW workers and jobseekers in collaboration with American Job Centers

An important note:

“Public charge” does not apply to WIOA services

- The “public charge” provision of immigration law makes it more difficult for immigrants to obtain green cards if they have used certain public benefits.
- Despite several high-profile changes to public charge regulations over the past two federal administrations, WIOA services have **NEVER been part of the public charge test**
- **Immigrants should be reassured** that enrolling in WIOA will NOT jeopardize their green-card or other immigration applications
- [Additional information](#) on what the public charge does and does not cover is available from US Citizenship and Immigration Services

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.
- DWD is here to help as you improve the workforce system experience for all jobseekers

Recap: Resources on serving immigrants and refugees 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).
- Specific information on assessing individuals' eligibility for WIOA services and ensuring compliance with nondiscrimination provisions can be found in DWD Policies [2016-0P EO Nondiscrimination Guidance.pdf](#); [DWD TA 2021-07: Complaint Procedures for WIOA Nondiscrimination and Equal Opportunity Provisions](#); [2017-03-PC1 Youth Eligibility Change1 \(in.gov\)](#); [DWD Policy 2021-03: Workforce Innovation and Opportunity Act \(WIOA\) Title I Adult and Dislocated Worker Program Eligibility](#)
- Explanation of [refugee employment authorization via Form I-94](#) (US Citizenship and Immigration Services, 2018).
- 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](#).
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