



OFFICE OF LANGUAGE ACCESS

**Annual Report to the Governor and State Legislature
2012**

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I. EXECUTIVE SUMMARY

This report covers the activities and accomplishments of the Office of Language Access (OLA) for the period December 2011 to November 2012.

The OLA is in its sixth year of operations. From December 2011 to March 2012, OLA continued as a one-man office. By May 15, 2012, however, it was able to fill the two staff positions that were restored and budgeted by the Legislature.

To promote public awareness of and outreach to the community on language access, the OLA continued to participate in community events. It held a 5-day training on Community Interpretation on March 12-16, 2012; sponsored the Fifth Annual Hawai'i Conference on Language Access on August 22-23, 2012; published its quarterly electronic newsletter; and continued to update its website.

The OLA provided technical assistance to state and state-funded agencies by meeting with state language access coordinators; making presentations; meeting with agencies; responding to legal questions; and providing updates on Limited English Proficient demographics.

In terms of compliance, the OLA was not able to conduct annual monitoring visits due to lack of staff. The statutory deadline for the submission of revised language access plans by agencies not receiving federal funds was July 1, 2012, but only five of eight had submitted their plans by the date of this report. On the other hand, the deadline for those receiving federal funds was July 1, 2011, and 17 out of 18 submitted. In addition, only 11 out of 26 agencies have complied with the OLA requirement that the agency submit to OLA a semi-annual language access report detailing the number and nature of services provided to limited English proficient (LEP) persons.

The OLA continued to receive calls during the year; however, most were requests for interpreters (including sign language) or translators, as well as requests for information. Other calls were informal complaints about unemployment insurance and the driver licensing test. There was one formal complaint involving the Department of Education (Lanakila Elementary School) regarding the provision of interpreter services.

The OLA's Executive Director successfully worked with the 2012 legislature to retain the two restored staff positions in the OLA budget and to pass a law transferring the office from DLIR to DOH.

The OLA engaged in collaborative projects with various agencies during the year. At the same time, the OLA staff continued to find ways to get involved in professional development activities to acquire more skills and knowledge in the area of language access.

The OLA held a strategic planning retreat on November 7, 2012 to address three things: revisit the language access law to determine if changes have to be made; review the role of the Language Access Advisory Council as defined in the law to see if its function is being implemented; and reexamine OLA's goals/strategies/objectives in light of OLA's transfer from DLIR to DOH.

II. INTRODUCTION

The Office of Language Access (OLA) is in its fifth year of operations. The office was established by law as an administratively attached agency within the Department of Labor and Industrial Relations (DLIR).

A. Report Requirement

The law requires the OLA to submit an annual report to the Governor and Legislature twenty (20) days prior to the opening of the legislative session. The report shall detail “compliance, complaints and resolutions, recommendations to enhance compliance, and statutory or administrative changes to further the purposes” of the language access law.

B. Organization of the Report

This report covers the activities and accomplishments of the OLA for the period December 2011 to November 2012.

III. THE OFFICE OF LANGUAGE ACCESS

A. Purpose and Function

The OLA is mandated to provide oversight, central coordination, and technical assistance to state agencies and covered entities in their implementation of language access requirements and in the provision of language services under the law, Hawaii Revised Statutes §§ 321C.

Note: a covered entity is defined as “a person or organization receiving state financial assistance, including grants, purchase-of-service contracts, or any other arrangement by which the State provides or otherwise makes available assistance in the form of funds to the person or organization for the purpose of rendering services to the public.”

B. Budget and Staffing

The office originally had six (6) positions: the Executive Director, a Senior Legal Analyst, two Research Analysts, a Legal Clerk, and a Clerk Typist. As a result of the reduction in force, all remaining staff members except the Executive Director were laid off effective November 20, 2009. The new governor reappointed the Executive Director, Serafin Colmenares Jr., in December 2010. Two staff positions (Senior Legal Analyst and Secretary) were restored in May 2012.

During the 2012 Legislative Session, OLA’s budget went down to \$306,749 (\$158,513 in personnel services and \$148,236 in other current expenses) as a result of additional cuts in salary.

IV. THE LANGUAGE ACCESS ADVISORY COUNCIL

A. Membership

With the passage of the revised language access law in 2012, the membership of the Language Access Advisory Council increased from 16 to 17 with the inclusion of an at-large member.

Dominic Inocelda of the Interagency Council on Immigrant Services, Gerald Ohta of the Department of Health, Melba Bantay of Catholic Charities Hawaii, and Mary Santa Maria of Maui County were reappointed to serve for four-year terms. Margarita Hopkins of the Big Island was appointed for a four-year term, while Jennifer Dotson was reappointed for a three-year term. All appointments were confirmed by the Senate. More recently, Pat Harpstrite (replacing Betty Brow) and Lito Asuncion were given ad interim appointments as Oahu County and at-large representatives respectively. Two members resigned during the year (Namaka Rawlins, representing a Hawaiian

language advocacy organization, as well as Azi Turturici, representing the County of Kauai), and their replacements have not been appointed.

Dominic Inocelda and Gerald Ohta continued to serve as Advisory Council Chair and Vice Chair, respectively.

B. Function

The Council serves in an advisory capacity to the OLA's Executive Director by providing input on implementation and compliance; the quality of oral and written language services provided; the adequacy of a state agency's or covered entity's dissemination and training of its employees likely to have contact with LEP persons; policies and procedures for language services; competency in working effectively with in-person and telephone interpreters; and understanding the dynamics of interpretation between clients, providers, and interpreters.

V. GOALS AND OBJECTIVES

The OLA's vision is "Language Access for All." Toward that end, the OLA's mission is to promote equal access to and full participation in government services, programs and activities for LEP persons by providing oversight, coordination and assistance to state and state-funded agencies. In seeking to fulfill its mission, in 2007, the OLA had established the following goals and strategies:

Goal 1 To promote public awareness and ensure that the LEP population is informed of and educated about their rights.

Strategies:

1. Establish and nurture working relationships with partners to develop awareness about language access.
2. Establish and hold a Language Access Month celebration in August of each year.
3. Conduct outreach to LEP communities.
4. Develop multilingual materials and website.
5. Undertake mass media campaigns.

Goal 2 To ensure that all state agencies and covered entities are in compliance with the requirements of the language access law.

Strategies:

1. Develop guidelines and provide training and technical assistance to state agencies and covered entities.
2. Establish a data collection and reporting system for state agencies.
3. Conduct a monitoring process and implement a compliance rating system for state agencies.

Goal 3 To assist in the development of an adequate pool of trained and competent language service providers.

Strategies:

1. Conduct a language access needs, resource, and cost analysis in the State of Hawai'i.
2. Develop a directory of language service providers in the State of Hawai'i.
3. Facilitate training programs for language service providers.
4. Develop statewide standards for interpretation and translation.

Goal 4 To develop OLA staff's expertise and resources.

Strategies:

1. Seek alternative sources of additional funding through federal grants and monies to further the OLA's mission.
2. Provide staff training and development.
3. Develop a resource library.
4. Interface and network with language access practitioners nationwide.

Goal 5 To ensure the timely resolution of complaints about language access.

Strategies:

1. Develop tools, processes and procedures for handling complaints.

2. Provide education and training to agencies on the complaints process.
3. Conduct outreach to LEP communities on the complaints process.
4. Develop responsive methods of resolving conflicts.

Goal 6 To provide statewide leadership in the area of language access.

- Strategies:**
1. Provide models and educate agencies about best practices.
 2. Serve as a clearinghouse for information and resources on language access.
 3. Cultivate, maintain and strengthen alliances, partnerships and collaborations.
 4. Propose and support needed legislation.
 5. Provide leadership in technological solutions to language access problems.

The OLA's work on achieving these goals and objectives is discussed in the following section.

VI. ACTIVITIES AND ACCOMPLISHMENTS

A. Public Awareness, Education and Outreach

The OLA is aware of the need for visibility and community education on language access. During the past year, it continued to participate in community meetings, held a statewide language access conference, published four issues of its quarterly newsletter, utilized Ōlelo TV, and maintained and updated its website (www.hawaii.gov/labor/ola) to provide information about language access and the office's activities to the public. These activities included:

- *Community Meetings.* The OLA Executive Director, whenever possible, continued to attend and provide updates on OLA activities and language access issues during the monthly meetings of the Interagency Council on Immigrant Services and meetings of community organizations.
- *Language Access Conference.* On August 22-23, 2012, the OLA hosted the Fifth Annual Hawai'i Statewide Conference on Language Access at the East-West Center Jefferson Imin International Conference Center in Honolulu. The 2-day event focused on the topic: Ka Unuhi: Translation – Maximizing Quality and Minimizing Cost. More than 200 individuals from all over Hawai'i attended. The keynote speakers were Deena Jang, Chief, Federal Coordination and Compliance Section, Civil Rights Division, of the United States Department of Justice; Michael Leoz, Regional Manager, Office for Civil Rights, Region IX, United States Department of Health and Human Services; Kleber Palma, Director, New York City Department of Education Translation and Interpretation Unit; and Jason Reed, LEP Program Manager, Washington State Department of Social and Health Services. Other speakers included OLA's Executive Director, panelists from the University of Hawaii as well as speakers presenting on various topics at the two tracks of the conference – one for translators and one for users.
- *Newsletter.* The office continued to publish and distribute its electronic quarterly newsletter (The OLA Quarterly), which came out with its sixteenth issue in January 2012, its seventeenth issue in April 2012, its eighteenth issue in July 2012, and its nineteenth issue in October 2012.
- *Olelo TV.* The office had its conference proceedings taped and broadcasted by Ōlelo TV in November and December 2011. The 2012 conference was also taped and is currently being processed for broadcast.
- *Website Update.* The OLA website was continually updated as OLA activities are undertaken and as new developments and information on language access become available.
- *Other Publications:* The OLA was also featured in the front page of the July 21, 2012 issue of the *Filipino Chronicle* as well as in the July 2012 issue of the *Fil-Am Courier*.

B. Technical Assistance and Training

The OLA was able to provide limited technical assistance to state and state-funded agencies to assist them in implementing their language access plans, including the following:

- The *quarterly meetings* with state language access coordinators to discuss plan implementation issues.
- *Presentations.* The Executive Director made presentations at the Conference on the Health of Maui's Filipino Community sponsored by the Department of Health on December 2, 2011 in Maui; the Senior Medicare Patrol Advisory Council meeting on April 18, 2012 at the Executive Office on Aging in Honolulu; and the 5th Annual Hawai'i Conference on Language Access on August 22-23, 2012 at the East-West Center in Honolulu.
- *Trainings.* OLA sponsored the 5-day Community Interpreter training for local interpreters on March 12-16, 2012 at the Department of Commerce and Consumer Affairs and McKinley Community School. The training was conducted by Marjory Bancroft and Lourdes Rubio-Fitzpatrick of Cross Cultural Communications of Columbia, Maryland. Twenty-nine interpreters representing 11 languages took and completed the training.
- *Consultations.* The Executive Director met with Gidget Ruscetta and Alan Morita of Kapiolani Medical Center and Hawai'i Pacific Health, respectively, to discuss language access concerns in the hospital setting. He also organized a meeting between Kapiolani Medical Center and interpreters/members from the Micronesian community to discuss interpretation needs on March 22, 2012. Consultations were also held between the Executive Director and Mike Kido, language access coordinator of the Department of Commerce and Consumer Affairs, regarding the implementation of their language access plan particularly the translation of vital documents, and also with Marlene Young, the new language access coordinator of the Department of Transportation.
- *Multilingual Poster.* OLA has come up with a new version of its multilingual poster, which includes translations of the phrase: "Please point here if you need an interpreter in this language (at no cost to you)" in 24 languages. The 11x17 poster (and an 8.5x11 version) has been made available to all state agencies and covered entities; and is also available on the OLA's website.

C. Compliance

1. Monitoring

Due to shortage of staff, OLA was not able to conduct monitoring visits to agencies during the year. The office, however, was able to get a memorandum to all executive department heads signed by the Chief of Staff in January 2012 which called on departments to comply with the earlier June 2011 memo from the Governor regarding language access law requirements.

2. Submission of Revised Language Access Plans

State agencies are required under the law to review, revise and submit their language access plans every two years. The eight state agencies not receiving federal funds are supposed to review and resubmit their plans by July 1, 2012. The OLA worked with these agencies to assess and make appropriate modifications to their plans, as necessary. As of this writing, only six of the eight agencies have submitted their revised language access plans; these are the Department of Commerce and Consumer Affairs, the Department of Human Resource Development, the Department of Taxation, the Office of the Governor, the State Senate, and the State House of Representatives.

Meanwhile, seventeen out of eighteen agencies receiving federal funds have submitted their revised language access plans by the May 15, 2012 deadline, as extended by the January 2012 memo of the Chief of Staff. Only the Department of Defense has not submitted its revised plan as of this writing.

Due to staffing problems, it has been difficult for OLA to actively follow up with these departments.

3. Data Reporting

To assist the agencies in identifying their population and in tracking language access services, the OLA previously developed a reporting tool to be used by agencies in gathering data and submitting the same to the OLA on a quarterly basis. As a result of staffing shortage in 2009, however, it was decided that reports will be submitted on a semi-annual basis with the following reporting periods: July to December (due March 1), and January to June (due August 31). The new reporting schedule took effect beginning with the July to December 2009 reporting period. As of this writing, only nine out of 26 agencies have submitted reports to OLA for the July 2011 to June 2012 period. These are the Judiciary, the Department of Human Services, the Department of Labor and Industrial Relations, the Department of Human Resource Development, the Department of the Attorney General, the Hawai'i Public Library System, the Department of Commerce and Consumer Affairs, the Department of Agriculture, and the Department of Accounting and General Services. As a result, the OLA is unable to come up with a complete and meaningful statistical report on the total number of LEP persons served and the language access services provided by the state agencies during the year.

Nevertheless, the following tables show the top five agencies (among those who submitted reports) with the most number of LEP encounters during the six-month period from July to December 2011:

Top Five Agencies	# Encounters	%
Judiciary	2,027	40.4
Human Services	1,771	35.3
State Public Library System	571	11.4
Labor and Industrial Relations	421	8.4
Attorney General	159	3.2

The table below shows the top 10 languages in which language services were provided during the same six-month period (July-December 2011) for these nine agencies:

Top 10 LEP Languages	# Encounters	%
Korean	1,223	21.4
Chuukese	1,104	19.3
Cantonese	672	11.7
Marshallese	579	10.1
Ilokano	562	9.8
Spanish	397	6.9
Mandarin	202	3.5
Tagalog	189	3.3
Vietnamese	150	2.6
Japanese	110	1.9

Of the total LEP encounters, 85.4% were for oral language (interpretation) services, 8.8% were for written language (translation) services, and 4.8% were for sight translation services (oral translation of written documents).

Also, only 12 out of 26 agencies reported that they have identified their vital documents. These are: the Department of Accounting and General Services; the Department of Agriculture; Hawaii Health Systems Corporation; the Department of Human Services; the Judiciary; the Department of Labor and Industrial Relations; the Department of Transportation; the University of Hawaii System; the Department of Commerce and Consumer Affairs; the House of Representatives; the Office of the Governor; and the Senate. However, very few of them have translated some of their vital documents to various languages.

D. Language Service Development

The office worked with Cross Cultural Communications, a Maryland-based company that does training and provides certificates to interpreters nationally, and held a community interpretation training and workshop in Hawai'i in March 2012. A total of 29 interpreters participated, representing 11 languages. Of the 29 participants, 28 passed the written examinations, and one is re-taking it; and 10 have fulfilled all other requirements, including passage a academic waiver of an oral proficiency exam, and received a certificate of completion of the training in community interpreting. The others are in the process of completing the oral examination requirements of the program.

E. Complaints Resolution

During this reporting year, the OLA received several informal complaints and one formal complaint. The informal complaints related to several situations such as driver licensing tests, unemployment insurance notices, etc. while the formal complaint involved one DOE school not providing interpretation services to an LEP parent during parent-teacher conferences. OLA continued to receive calls from LEP individuals and agencies at about the same volume as last year. As before, most of the calls were inquiries or requests for interpreters (including sign language) or translators. Others were requests for information. There were a number of calls from LEP clients who were directed by a state or state-funded agency to OLA for their interpreter needs. Obviously, these front line staffers are not aware of their language access plans and what the process is in providing interpreters to their clients. Calls from state agencies were referred to their respective language access coordinators. Individuals and nonprofit agencies requesting interpreters or translators were referred to the directory of language services in Hawai'i. Calls for information were either answered by the OLA or directed to the most appropriate office or agency.

Formal Complaint. The formal complaint involved a Chinese LEP parent who was not provided a Chinese interpreter during a parent-teacher conference and was told that the Department of Education (DOE) has adopted a policy of not providing interpretation services for parent-teacher conferences because of a prevailing concern over confidentiality. After the complaint was formally filed with OLA (through the help of a Chinese interpreter who had taken OLA's Community Interpretation Training and attended the OLA 5th Annual Conference, and through had become familiar with Hawaii's language access laws), the OLA Senior Legal Analyst called the DOE Language Access Coordinator and was told that the teacher at Lanakila School was misinformed and that there is no such policy. The DOE Language Access Coordinator contacted the Principal of the school who promised to look into the matter and educate his staff about the requirements of the language access law and DOE's language access policies.

F. Legislative Initiatives

OLA successfully shepherded the introduction and passage of legislation (Act 201) during the 2012 regular legislative session which transferred the office from the Department of Labor and Industrial Relations (DLIR) to the Department of Health (DoH). The Act went into effect on July 1, 2012, includes a one-year transition period, and should result in a full transfer of its budget by July 1, 2013.

Legislation is currently being drafted for the establishment of a language access resource center and multilingual website within OLA with the assistance of Senator Suzanne Chun-Oakland, chair of the Senate Human Services Committee.

G. Collaborations

The OLA partnered or collaborated with several agencies during the year. The office partnered with the Senior Medicare Patrol program of the Executive Office on Aging in organizing presentations on Medicare fraud on the neighbor islands (Kauai, Lanai, Big Island) in February-March 2012. In addition, OLA partnered with the following agencies in holding the 5th Annual Hawai'i Conference on Language Access: the United States Department of Health and Human Services Office for Civil Rights (Region IX); the United States Department of Justice Federal Compliance and Coordination Office Civil Rights Division; New York City Department of Education Translation and Interpretation Unit; Washington State Department of Social and Health Services Economic Services

Administration; the Hawaii State Department of Health; the Hawaii State Department of Labor and Industrial Relations; the University of Hawaii Center for Interpretation and Translation Studies; Olelo Community Media; viaLanguage; Pacific Interpreters; American Translators Association; Inter-Agency Council for Immigrant and Refugee Services; Bilingual Access Line; and the Hawaii Interpreter Action Network (HIAN) .

H. Staff Development

The Executive Director attended the Pacific Global Health Conference on October 9-10, 2012 at the Ala Moana Hotel in Honolulu. Together with the OLA Senior Legal Analyst, he also attended the 2012 Hawaii Digital Government Summit on December 11, 2012 at the Hilton Hawaiian Village Resort and Spa.

In addition, staff attended/listened in to several webinars on language access and related topics.

VIII. ISSUES AND CHALLENGES

A. Public Awareness and Outreach

There continues to be a need to inform and educate state agencies and the public about the language access law and the importance of language access in Hawai'i. Also, based on discussions with community members and evidenced by the minimal numbers of complaints that the OLA receives, it would appear that many members of the community, particularly those who are Limited English Proficient, are either not aware of their rights or are reluctant to file complaints in cases where they are not provided language services. Consequently, there is a need for more outreach and education to the community.

B. Training

The need for further statewide training of front line and bilingual staff – on working with interpreters, the role of bilingual staff in interpretation, cultural competency, language competency, etc. – has been a consistent theme in meetings with agencies as well as at various conferences on language access. It is especially needed for the bilingual staff whom the agencies are relying more and more upon given recent budgetary constraints. Agency staff also need training on their respective language access plans. Moreover, there is a need to continually train administrators and agency staff about the language access law and its requirements. In addition, further training of language service providers – interpreters and translators – is needed, particularly in the health and medical arenas where there is a dearth of interpreters and translators.

C. Compliance

The governor's memo of June 2, 2011 pointed out that much remains to be done by state agencies to meet the compliance requirements of Hawai'i's language access law. Even the basic requirements of posting multilingual notices, the identification and translation of vital documents, the training of staff on their language access plans, the collection of data and identification of their LEP population, and the training of their bilingual staff are not being done. Several agencies, all falling within the Executive Branch, have not submitted their revised language access plans, and some have not been cooperative with the OLA regarding the implementation and evaluation of their language access plans. The lack of staff to follow up with agencies and the absence of consequences for non-compliance make it difficult for OLA to improve and address non-compliance issues.

D. Resources

The passage of the Language Access Law has created a demand for language services, but there remains a shortage of available and competent language service providers statewide. In addition, lack of funding continues to be a problem for state agencies. This is exacerbated by the current economic slowdown, reductions in staff and budgets, and an increasing demand by the LEP public for government services. Finally, the language service delivery system in Hawai'i continues to be very limited, fragmented and uncoordinated.

E. The Status of the OLA

OLA will move to DOH effective July 1, 2013. OLA, however, remains physically located at the DLIR owing to lack of office space at the DOH. It remains to be seen how this arrangement will impact the smooth and effective functioning of the office. In addition, although OLA's two staff positions have been restored, it is still three positions short of its original staffing. The continued lack of staff will continue to impact the effective performance of the OLA's basic and statutory functions.

In anticipation of its move to DOH, OLA held its 3rd strategic planning retreat on November 7, 2012. The retreat revisited the language access law to determine if changes have to be made; reviewed the role of the Language Access Advisory Council as defined in the law to see how well its duties are being implemented; and reexamined OLA's goals/strategies/objectives in light of OLA's transfer from DLIR to DOH. The session was attended by members of the Language Access Advisory Council, some state language access coordinators, and members of the community. Dr. Michael Cheang of the University of Hawaii facilitated the morning session while Shari Dela Cuadra of DOE facilitated the afternoon discussion. In terms of goal prioritization, it was decided that OLA will focus on four of its six goals: (1) to ensure that all state agencies and covered entities are in compliance with the requirements of the language access law; (2) to promote public awareness and ensure that the LEP population is informed of and educated about their rights; (3) to assist in the development of an adequate pool of trained and competent language service providers; and (4) to ensure the timely resolution of complaints about language access. It also looked at the by-laws of the Language Access Advisory Council and reactivated its various working committees: plans review committee, special projects committee, legislative committee, and by-laws committee. Finally, in trying to identify and address the shortcomings of the language access law, the group went through an exercise based on the Oz principle from the work of Partners in Leadership®: seeing or identifying the issue; owning it; finding ways to solve it; and actually doing it.

IX. RECOMMENDATIONS

To address the issues mentioned above, the following are being proposed:

1. Provide additional staffing support to OLA to enable it to better perform its compliance functions.
2. Legislatively establish a Language Access Resource Center to provide training and certification to interpreters and translators.
3. Amend the law to provide more enforcement power to OLA.
4. Support the provision of statewide training and technical assistance to state and state-funded agencies.
5. Strengthen OLA's educational and outreach activities.
6. Establish and implement a student internship program to supplement staffing needs.
7. Maintain and expand collaboration with public and private agencies.

OLA continued to face challenges during the past year. The filling of the two staff positions was a big step forward but it still needs additional staffing, statutory and programmatic support to enable it to fulfill its goals and objectives.