

# INSIGHTS IN PUBLIC HEALTH

## **‘O ka ‘Ōlelo Ke Ola (Language Is Life): Language Access and the Office of Language Access (OLA)**

Aphirak Bamrungruan JD

*Insights in Public Health is a monthly solicited column from the public health community and is coordinated by HJH&SW Contributing Editor Tetine L. Sentell PhD from the Office of Public Health Studies at the University of Hawai‘i at Mānoa and Contributing Editor Michele N. Nakata JD from the Hawai‘i Department of Health.*

### **Introduction**

Hawai‘i is one of the most culturally diverse states with 1 of the highest proportions of non-English speakers in the nation. According to the US Census Bureau, Hawai‘i’s total population aged 5 years and older is 1 337 965 with roughly 344 880 (25.8%) speaking a language other than English at home<sup>5</sup> and 152 618 (11.4%) indicating that they speak English “less than very well,”<sup>6</sup> classifying them as limited English proficient (LEP).

Under Hawai‘i’s Language Access Law,<sup>7</sup> the term LEP refers to an individual who, on account of national origin, does not speak English as the person’s primary language and self identifies as having a limited ability to read, write, speak, or understand the English language. Hawai‘i ranks sixth in the nation per capita for LEP.<sup>8</sup> The top 10 languages spoken by individuals with LEP in Hawai‘i are: Ilocano, Tagalog, Japanese, Chinese, Korean, Spanish, Vietnamese, Samoan, Marshallese, and Trukese (Chuukese).<sup>9</sup>

The lack of English proficiency has a strong impact on people’s economic and social activities, health literacy and wellness, access to education, employment, and important public assistance, benefits, programs and services. According to the Hawai‘i Department of Business, Economic Development and Tourism (DBEDT), 56.7% of all non-English speakers have a less than high school educational level.<sup>10</sup> Additionally, the median earnings of non-English speakers are lower than English-only speakers.<sup>11</sup> Language access continues to be a significant barrier for individuals with LEP both educationally and economically in accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, and understanding complex information provided by government and government-funded programs and activities.

### **Legal Mandates for Language Access**

Language access is a civil right. This right derives from Title

VI of the Civil Rights Act of 1964 which provides that, “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”<sup>12</sup> This means that any government agency receiving federal financial assistance—either directly or indirectly—is required to comply with Title VI.

On August 11, 2000, President Clinton signed Executive Order No. 13166, entitled “Improving Access to Services for Persons with Limited English Proficiency” (EO 13166) requiring each federal agency to prepare a plan to improve access to its federally conducted programs and activities by eligible persons with LEP,<sup>13</sup> consistent with the compliance standards set forth by the US Department of Justice (DOJ) LEP guidance<sup>14</sup> issued on the same day. EO 13166 requires recipients of federal financial assistance to ensure that persons with LEP have “meaningful access” to their programs and services. Meaningful access means “language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual.” For individuals with LEP, meaningful access denotes “access that is not significantly restricted, delayed or inferior as compared to programs or activities provided to English proficient individuals.”

While the legal mandates under Title VI and EO 13166 provide language access to any program or activity receiving federal financial assistance, there are many programs and activities in the State of Hawai‘i that are operated solely on state funds. As a result, the 2006 Hawai‘i State Legislature passed the Hawai‘i Language Access Law (codified as chapter 321C, Hawai‘i Revised Statutes) to address affirmatively, on account of national origin, the language access needs of LEP persons.<sup>15</sup> This made Hawai‘i the first state in the nation to pass a comprehensive language access law. Chapter 321C, HRS, applies to all state agencies and covered entities.

The key requirements of the Hawai‘i Language Access Law

are the provision of oral and written language services, free of charge, to persons with LEP.<sup>16</sup> Under Hawai‘i Language Access, oral language services means the free provision of oral information necessary to enable persons with LEP to access or participate in services, programs, or activities of a state agency or covered entity.<sup>17</sup> This type of service is commonly known as an interpretation service. Written language services mean the free provision of written information necessary to enable persons with LEP to access or participate in services, programs, or activities of a state agency or covered entity,<sup>13</sup> commonly known as a translation service.

### **What Is the Office of Language Access?**

The Office of Language Access (OLA) was established to implement the Hawai‘i Language Access Law to ensure meaningful access to services, programs, and activities offered by the executive, legislative, and judicial branches of state government, including departments, offices, commissions, boards, or other agencies, and all covered entities for persons with LEP.<sup>14</sup> OLA’s overall purpose is to address affirmatively the language access needs of individuals with LEP by providing oversight and central coordination to the executive, legislative, and judicial branches of Hawai‘i’s state government, and technical assistance to state-funded agencies in developing and implementing of language access requirements as required by law. OLA also works to establish statewide goals and objectives relating to improving access by individuals with LEP to programs, services, and activities of state and state-funded agencies, monitors and reviews state agencies for compliance, and provides language access complaint resolution.

OLA is headed by the executive director, who is appointed by the governor.<sup>15</sup> The executive director coordinates, supervises, and oversees the work, activities, and programs of OLA. The Hawai‘i Language Access Law also established a 17-member Language Access Advisory Council (“LAAC”) which assists the executive director by providing input on: implementation and compliance with the Hawai‘i language access laws; the quality of oral and written language services provided under the law; and the adequacy of a state agency or covered entity’s dissemination and training of its employees likely to have contact with persons with LEP, its policies and procedures for language services, its competency in working effectively with in-person and telephone interpreters, and its understanding of the dynamics of interpretation between clients, providers, and interpreters.<sup>16</sup>

### **What Does OLA Do?**

OLA is comprised of 2 organizational segments — Monitoring and Compliance (MC) and the Language Access Resource Center (LARC). MC is responsible for providing technical assistance to state-funded agencies in the development of their language access plans and on matters related to the provision of

language access assistance to persons with LEP. The primary functions of MC include: conducting research and analysis on questions regarding the application and implementation of state and federal laws governing persons with LEP; formulating and implementing compliance monitoring strategies; conducting on- and off-site visits; reviewing and evaluating plans, data, reports, and other related information; providing feedback on implementation of language access plans; and investigating, making recommendations, and tracking the resolutions of language access complaints.

LARC is responsible for addressing the need for a centralized resource that meets the specific language service needs of government agencies and state-funded entities. The major tasks of LARC are: maintaining and updating the online roster of interpreters and translators; conducting outreach activities to encourage interested individuals to become interpreters and translators; producing and translating outreach and other educational materials; establishing a training program for state and state-funded agencies on how to utilize and work with interpreters; establishing a training program for interpreters and translators to improve their skills; identifying a process to test and certify interpreters and translators and promoting use of the process to ensure the quality and accuracy of their services; and establishing an online library of resources on language access.

### **Collaborations Between OLA and Other Agencies**

In 2017, OLA began a collaboration with the Office of Equality and Access to the Courts (OEAC), the Hawai‘i State Judiciary, and the Hawai‘i Language Roadmap (Roadmap) at the University of Hawai‘i at Mānoa to focus on developing shared understandings and best practices for language use that addresses language access for those with LEP, use of bilingual/multilingual skills on the job, and certification of language proficiency. In September 2017, OLA, in collaboration with Roadmap, hosted a symposium at the University of Hawai‘i East-West Center titled, “The Multilingual Match: Meeting the Needs of Hawai‘i’s Workforce through Career-based Pathways to Linguistic Proficiency.” The purpose of this symposium was to identify and address the needs, challenges, and pathways of ensuring quality and accurate language services for those in need.

Following this successful symposium, OLA partnered with Roadmap and the Hawai‘i Department of Education (DOE) to organize the State of Hawai‘i’s first Multilingual Career Development Day in March 2018. This event raised student awareness about the value of language skills and encouraged the continued development of language skills when using these in their daily life, in their communities, and in our local workforce. The second Multilingual Career Development Day was held in April 2019 and about 100 students from the DOE and the University of Hawai‘i system represented the Class of 2019 Seal of Biliteracy candidates. The Seal of Biliteracy is

an award given by a school, district, or state in recognition of students who have studied and attained proficiency in 2 or more languages by high school graduation.<sup>17</sup> OLA and its partners are planning to host the next Multilingual Career Development Day in Spring 2020.

In November 2019, OLA again partnered with Roadmap to host the Symposium on Building a Multilingual Workforce for Hawai‘i at the University of Hawai‘i at Mānoa campus. The symposium brought together leaders from education, business, government, and non-profit organizations and provided participants with an opportunity to talk story about our state’s multilingual heritage, how it strengthens our workforce, and how it presents challenges in our daily workplace interaction.

Since 2018, OLA has also partnered with the Hawai‘i State Judiciary to conduct the annual state-wide Basic Orientation Workshops, which are held as 3 sessions on Oahu and 4 sessions on other islands per year, for interested language interpreters. The purpose of these workshops is to provide training to increase the number and availability of qualified language interpreters in order to advance meaningful access for persons with LEP at judicial hearings. The next workshop will be held at the Hawai‘i Supreme Court in September 2020.

In 2020, OLA and the Conference Planning Committee will be holding the 2020 Hawai‘i Conference on Language in August 2020. This conference will provide an opportunity for participants to attend informational sessions presented by subject matter experts on various language access topics. An audience of 250 people, comprising state and local government personnel, service providers from the non-profit and private sectors, medical institutions, social services agencies, cultural organizations, community advocates/leaders, interpreters, translators, and the limited-English proficient community is anticipated. These collaborations of the Executive Branch through OLA with the Judiciary Branch through OEAC and educational departments through Roadmap and DOE reflect the growing recognition of the language access needs for our multilingual population.

## Conclusion

Although the State of Hawai‘i passed the Language Access Law in 2006, Hawai‘i’s LEP community continues to be challenged both educationally and economically in accessing and participating in social, health, educational, and employment opportunities due to their limited English proficiency. OLA believes language should cease to be a barrier in Hawai‘i and instead be used as a tool to connect people together. Providing language access is a shared responsibility for everyone in the Aloha State. Ensuring Hawai‘i’s LEP community meaningful access will strengthen their connections in all aspects of local life.

Author’s Affiliation:

- The Hawai‘i Office of Language Access, Honolulu, HI

## References

1. US Census Bureau. 2017 American Community Survey 1-Year Estimates, Tbl. R1601. Percent of people 5 years and over who speak a language other than English at home. Accessed July 24, 2019.
2. US Census Bureau. 2017 American Community Survey 1-Year Estimates, Tbl. R1603. Percent of people 5 years and older who speak English less than “very well.” Accessed July 24, 2019.
3. Hawai‘i’s Language Access Law. Hawai‘i Revised Statutes (HRS) chapter 321C.
4. US Census Bureau. 2017 American Community Survey 1-Year Estimates, Tbl. R1603. Percent of people 5 years and older who speak English less than “very well.” Accessed July 24, 2019.
5. US Census Bureau. ACS Estimates by State: 2009–2013 Detailed Languages Spoken at Home by Ability to Speak English for the Population 5 Years and Older. <https://www.census.gov/data/tables/2013/demo/2009-2013-lang-tables.html>. Updated October 28, 2015. Accessed July 24, 2019.
6. Department of Business, Economic Development and Tourism, State of Hawai‘i. Non-English speaking population in Hawai‘i, Tbl.6, Non-English speaking at home in Hawai‘i by age, education, and race. Published April 2016.
7. Department of Business, Economic Development and Tourism, State of Hawai‘i. Non-English Speaking Population in Hawai‘i, Impacts of English Proficiency on Earnings. Published April 2016.
8. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq.
9. Executive Order 13166, “Improving Access to Services for Person with Limited English Proficiency,” 65 Fed. Reg. 50121.
10. Enforcement of Title VI of the Civil Rights Acts of 1964 – National Origin Discrimination Against Persons with Limited English Proficiency: Policy Guidance, 65 Fed. Reg. 50123-25.
11. Haw. Rev. Stat. § 321C (Supp. 2018).
12. Haw. Rev. Stat. § 321C-3 (Supp. 2018).
13. Haw. Rev. Stat. § 321C-2 (Supp. 2018).
14. Haw. Rev. Stat. § 321C-1 (Supp. 2018).
15. Haw. Rev. Stat. § 321C-6 (Supp. 2018).
16. Haw. Rev. Stat. § 321C-7 (Supp. 2018).
17. Department of Education, State of Hawai‘i. Seal of Biliteracy. <http://www.hawaiipublicschools.org/TeachingAndLearning/StudentLearning/GraduationRequirements/Pages/Seal-of-Biliteracy.aspx>. Accessed March 30, 2020.