

LANGUAGE ACCESS ADVISORY COUNCIL

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 Punchbowl Street
Honolulu, Hawaii 96813

Tuesday, August 7, 2007
9:30 a.m. – 11:30 a.m.
Director's Conference Room (Room 321)

A G E N D A

1. Roll Call and Introductions
2. Approval of Minutes of July 5, 2007 Meeting
3. Updated List of Members and Schedule of Meetings
4. Discussion and Adoption of By-laws
5. Organization of Committees
6. OLA Executive Director's Report
7. Staff Presentation on "Hawaii's Language Access Law: Creating a Language Access Plan"
8. Sunshine Law
9. Discussion of Agenda for Next Meeting
10. Announcements

If you have special needs due to disability or limited English proficiency, please contact the Office of Language Access (OLA) at 586-8730.

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Tuesday, August 7, 2007
HIOSH Training Room (Room 427)

MINUTES

The meeting was called to order at 9:40 a.m.

1. Roll Call:

Present:

Serafin "Jun" Colmenares	Executive Director, Office of Language Access, Ex-officio
Bill Hoshijo	Executive Director, Civil Rights Commission, Ex-officio
Dominic Inocelda	Language Access Advisory Council, Chairperson
Gerald Ohta	Language Access Advisory Council, Vice Chair
Lito Asuncion	Language Access Advisory Council Member
Namaka Rawlins	Language Access Advisory Council Member
Dr. Tin Myaing Thein	Language Access Advisory Council Member

Excused:

Alohalani Boido	Language Access Advisory Council Member
Sr. Earnest Chung	Language Access Advisory Council Member
Canisius Filibert	Language Access Advisory Council Member
Dr. Suzanne Zeng	Language Access Advisory Council Member

Others Present:

Frances Lum	Department of the Attorney General
Shari Dela Cuadra	Research Analyst, Office of Language Access
Jeremy Low	Research Analyst, Office of Language Access

2. Approval of minutes of July 5, 2007 meeting.
Motion to approve minutes made by Gerald Ohta, seconded by Lito Asuncion.
Minutes approved unanimously.
3. Updated list of members and schedule of meetings.
Updated list of members and schedule of meetings were provided to Council Members.
Next meeting on 9/12/07.
4. By-laws
The following were suggested changes to the 5/20 draft:

- a. Pg. 2, Article IV.D: cross out “d” in the word “continued”
- b. Pg. 3, Section VII: re: attendance. Will reword to state that council members are required to attend meetings and three unexcused absences will result in recommendation for removal.
 - Question: What is an excused absence? As long as notice is provided before the meeting, absence will be noted in the minutes as excused.
- c. Article IV: will add in paragraph “and through the Office of Language Access”
- d. Article V, Section 2: will add, “Unless otherwise determined by the Council.”
- e. Article XI, Section 1: deleted, and rest of sections will be numbered accordingly.

5. Organization of committees

As proposed, the Council shall have four standing committees: Plans Review, Legislative, Special Projects, and By-laws & Procedures committees. The Chair will appoint standing committee chairs at next meeting. It is acceptable to have members of the community on the committees as long as majority are Council members.

6. Director’s report – *see* written report.

7. Staff presentation on “Hawaii’s Language Access Law: Creating a Language Access Plan”

Presentation that is done at the workshops was shown to Council members. Also, Council members were provided with the handout that is distributed to attendees.

Discussion after presentation:

- f. Hawaiian is an official language of the State. English is the other.
 - Note: Because Hawaiian is the other official language of the State, it should be made obvious on the signage provided by our office. Nāmaka Rawlins has agreed to translate the information on the signage into Hawaiian.
- g. Advisory Council’s role in responding to the entities’ lack of resources:
 - Possibly work with the AG on coming up with language for RFPs.
 - Create a language bank.

8. Sunshine Law

Frances Lum, Department of the Attorney General, informed the Council of the requirements under the Sunshine Law

- h. Chapter 92
- i. Office of Information Practices provides oversight and interprets the law
- j. Purpose of the law is to open government up to public scrutiny and participation
- k. Requirements:
 - General Rule: All decisions made by the council must be made at a public meeting where the public must be able to observe.
 - All meetings must be open to the public unless there is a statutory exception.
 - Video conferencing is allowed as long as video and audio can be seen and heard by all throughout the meeting. In the event audio or video capabilities cease during a meeting, the meeting must stop. Notice informing the public of the video conference location must be provided and thus the area where the video conference is held must be open to the public.

- Testimony: Testimony must be accepted in its oral or written form. Example provided of an email sent to a Council member. If the council member reasonably believes that the email communication is providing input to the Council, then the email must be provided as testimony. (Per Bill Hoshijo, one way of determining this is to ask the individual whether he/she meant for the communication to be testimony.) Also, to alleviate the burden on individual council members in determining whether a communication is testimony the council can consider setting up a central email, phone or fax number.
- Recess: Once a meeting convenes the council may recess. However the next meeting shall be announced and must be scheduled within a reasonable time.
- Communication between Council members outside regularly scheduled council meetings:
 - General Rule – Council members must not discuss Council business particularly for the purpose of getting votes. “Business” is defined as matters to which the Council has advisory power over, jurisdiction, etc.
 - Exceptions:
 - Two Council members can discuss business so long as council member is not seeking to obtain a vote or a commitment to vote. Also a council member cannot become the “spoke of a wheel” by talking to one member and then communicating that discussion with another member.
 - Council members are allowed to talk to non-board members.
- Activities the Council can do with less than quorum. Council can designate a smaller group (less than quorum):
 - To investigate;
 - Present, discuss or negotiate Council business;
 - Discuss with Governor; and
 - Discuss with Head of the Department.
- Closed Meeting (or Executive Meeting) - meetings where the public cannot attend. There are 8 instances, of which two apply to the Council: 1) personnel decisions, since they must be confidential, 2) conference with attorney on legal issues regarding power, duties, and immunity.
- Emergency Meeting – only occurs if there is imminent peril to public health and welfare. Also, can call emergency meeting if unable to provide notice within 6 days.
- Procedurally, OLA will post notices, coordinate meeting, ensure notices go out, and itemize the agenda.
- Amending agenda is possible, unless it significantly affects a matter of reasonable importance.
- Minutes – required to be made available to the public within 30 days even if the Council was not able to vote on it.
- Tape recording by the public is ok, unless it disrupts the Council meeting. Same goes for videotaping.
- Voiding board action: An individual may challenge a board action within 90 days after the action is done.
- Willful violation of the Sunshine Laws is a misdemeanor.

- Social Events: Council members may attend together.
- 1. Questions re: Sunshine Laws:
 - Limiting length of testimony is determined through administrative rules. In the event there are no administrative rules, unsure; but reasonableness of limitation may dictate length.
 - Protocol for responding to request by the media – council would need to authorize you. Note that Council members still have the first amendment right to speak so able to give opinion in own capacity, just need to qualify opinion as not speaking on behalf of the Language Access Council.

9. Discussion of agenda for next meeting:

Adoption of by-laws.

Discuss legislative package – look at budget.

Appoint committee chairs.

Survey budget projections from different departments to determine costs and what is the most cost efficient way of ensuring LEP individuals are provided with services.

Meeting adjourned at 11:20 a.m.

**BY-LAWS OF THE
LANGUAGE ACCESS ADVISORY COUNCIL**

Hereinafter referred to as "the Council"

**Article I
PURPOSE**

The language access advisory council shall serve in an advisory capacity to the executive director of the office of language access, providing advice on matters relating to the implementation of and compliance with language access requirements and the provision of language access services as provided by law.

**Article II
AUTHORITY**

Chapter 371-37 of the Hawaii Revised Statutes establishes the language access advisory council within the department of labor and industrial relations for administrative purposes.

**Article III
MEMBERSHIP**

Section 1. Appointment. All members, except for the executive directors of the Hawaii Civil Rights Commission and Office of Language Access, shall be nominated and, by and with the advice and consent of the Senate, appointed by the Governor.

Section 2. Number of Members. The Council shall consist of eleven (11) members.

Section 3. Composition. The Council shall consist of the following:

- (1) One representative from the state government;
- (2) One representative from a covered entity;
- (3) One bilingual case management worker, or an individual who is or has been employed by a state-funded immigrant service agency or program;
- (4) One representative of an advocacy organization that provides services to limited English proficient persons;
- (5) One member from the limited English proficient population who has an interest in the provision of oral language services;
- (6) One representative of the University of Hawaii department of language and linguistics who provides professional training in interpretation and translation;
- (7) One representative of a Hawaiian language advocacy organization;

- (8) One representative of a professional interpreter's organization;
- (9) One representative of a bilingual referral service or program;
- (10) The executive director of the Hawaii Civil Rights Commission or authorized representative; and
- (11) The executive director of the Office of Language Access, as ex-officio member.

Section 4. Term.

- a. The term of members of the Council shall be for four years; provided that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year.
- b. No person shall be appointed consecutively to more than two terms and membership on this Council shall not exceed eight consecutive years.
- c. Upon the expiration of a member's initial term, such member may continue in office as a holdover member and be re-nominated and reappointed to a second term or until a successor is nominated and appointed as a replacement. A holdover member who is not reappointed to a second term and not replaced by a successor shall not hold office beyond the end of the second regular legislative session following the expiration of the member's term of office.
- d. After the expiration of a member's second term, a member whose membership on the council has not exceeded eight consecutive years may continue in office as a holdover member until a successor is nominated and appointed, provided that a holdover member shall not hold office beyond the end of the second regular legislative session following the expiration of the member's term of office or beyond the end of the eighth consecutive year of service on this council, whichever occurs first.

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Section 5. Vacancies. Vacancies shall exist on the death, resignation, or removal of any member.

- a. Resignations shall take effect upon acceptance of resignation by response of the Governor.
- b. A member appointed to fill a vacancy shall hold office for the remainder of the unexpired term of his/her predecessor.
- c. When the Senate is not in session and a vacancy occurs, the Governor may fill the vacancy which shall, unless confirmed by the Senate, expire at the end of the next session. A person receiving an interim appointment such as in this paragraph shall not be eligible of another interim appointment to such vacancy if the appointment shall have failed to receive confirmation by the Senate.
- d. The Governor may remove or suspend for cause any member after due notice and public hearing.

Section 6. Compensation. Members shall serve without compensation, but shall be paid their necessary expenses in attending meetings and carrying out their responsibilities.

Section 7. Attendance. Council members are required to attend council meetings regularly. Any Council member with three consecutive unexcused absences from regular Council meetings during a given calendar year as determined by the Chair, shall, upon due notice and by majority vote of members present, be recommended for removal and replacement by the Governor.

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Deleted: may make the recommendation to the Governor that the member be removed or replaced.

Article IV RESPONSIBILITIES

- (1) To advise on all matters relating to the implementation of and compliance with Chapter 371 of the Hawaii Revised Statutes;
- (2) To provide input on the quality of oral and written language services provided under Chapter 371; and
- (3) To provide input on the adequacy of a state agency or covered entity's dissemination and training of its employees likely to have contact with limited or non-English proficient persons, its policies and procedures for language services, its competency in working effectively with in-person and telephone interpreters, and its understanding of the dynamics or interpretation between clients, providers, and interpreters.

In the performance of these responsibilities, the Council may, upon request and through the Office of Language Access, offer information and advice on issues warranting priority consideration by the Governor or State Legislature, and, in collaboration with other entities, endeavor to raise the consciousness of all segments of the State to the needs of the limited English proficient community.

Article V NOTICES AND MEETINGS (Ch. 92, HRS)

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Section 1. Open Meetings. All meetings are required to be open to the public, and all persons are required to be permitted to attend. However, any person who willfully disrupts a meeting to prevent and compromise the conduct of the meeting may be removed. If such a situation arises, the Council shall take official action and reasons for such a removal shall be recorded and entered into the minutes of the meeting.

Section 2. Regular Meetings. Unless otherwise determined by the Council, all regular meetings shall be held once a month at a location within the State which is reasonably accessible from all geographic areas of the State, and at a time that is reasonably convenient for a majority of the members.

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Section 3. Emergency Meetings. An emergency meeting may be held without advance notice upon fulfillment of the following conditions:

- a. At least two-thirds of all members of the Council agree that an emergency exists by finding that an imminent peril to the public health, safety, or welfare exists.

- b. The Council states in writing its findings and the reasons in support thereof.
- c. The Council files its findings and the emergency agenda of the meeting with the Office of the Lieutenant Governor and with the Office of Language Access as soon as practicable; and
- d. Persons on the Council's mailing list are contacted by mail or telephone as soon as practicable.

Section 4. Quorum. The presence of a majority (more than 50%) of all voting members shall constitute a quorum for the transaction of business. Wherever this section conflicts with statutes or regulations, said statutes or regulations shall apply. The only motion which the Chair shall entertain without a quorum is a motion to adjourn.

Section 5. Presiding Officer. The Chair, or in the absence of the Chair, the Vice Chair, shall preside at all meetings of the Council.

**Article VI
VOTING
(Ch. 92, HRS)**

Section 1. Voting Members. Each member shall have one (1) vote. There shall be no voting by proxy. Each act or decision done or made by a majority of the membership at which a quorum is present is the act of the Council.

Section 2. Voting. The manner of voting, whether by secret ballot, show of hands or by voice, shall be determined by the Chair.

**Article VII
OFFICERS**

Section 1. Council officers. The officers of the Council shall consist of a Chair and a Vice Chair who are elected annually by and from among the members of the Council.

Section 2. Initial officers. The initial Chair and Vice Chair shall be elected and assume their respective offices during the first meeting of the Council in July 2007.

Section 3. Nomination. For succeeding elections, the Chair shall appoint a committee of two members who shall recommend a slate of nominees for the offices of Chair and Vice Chair. The nomination slate shall be presented as part of the regular meeting held in the month of May, at which time nominations will be accepted from the floor during the meeting.

Section 4. Election. Except for the initial officers, succeeding officers shall be elected at the regular meeting held in the month of June and shall assume their respective offices on July 1st.

Section 5. Duties of the Chair. The duties and responsibilities of the Chair shall include, but not limited, to the following:

- a. To assist the executive director in the preparation of the agenda.
- b. To preside at all meetings of the Council.
- c. To appoint the Chairs and members of standing and ad hoc committees and organize the work of the Council.
- d. To serve ex-officio without vote on all standing and ad hoc committees.
- e. To carry out such other duties and responsibilities incident to such office, including the preparation and presentation of speeches and testimonies.

Section 6. Duties of the Vice Chair. In the absence of the Chair, the Vice Chair shall perform all duties and responsibilities of the Chair, and when so acting, shall have all the powers of the such office. The Vice Chair shall perform such other duties as may be assigned, from time to time, by the Council.

Article VIII COMMITTEES

Section 1. Standing Committees. Committees of the Council shall include, but not be limited to the following:

- a. Plans Review Committee – This Committee shall have responsibility for reviewing and advising on the development and implementation of language access plans, and making recommendations to the Council.
- b. Legislative Committee – This Committee shall keep abreast of all legislative matters relating to language access and shall recommend such action deemed appropriate to the Council. It may also assist in coordinating the development of legislative proposals and testimonies in coordination with the executive director.
- c. Special Projects Committee – This Committee shall have responsibility for reviewing and advising on actions relating to special projects or programs relating to language access, and such other related subjects that may be assigned, and making recommendations to the Council.
- d. By-Laws and Procedures Committee – This Committee shall have responsibility for reviewing and proposing amendments to these by-laws as may be appropriate, and proposing procedures for adoption and use by the Council.

Section 2. Ad Hoc Committees. Members of the Council may authorize the establishment of temporary committees as may be necessary. Committees so created shall dissolve upon completion of assignment.

Section 3. Appointment. Members and Chairs of standing and ad hoc committees shall be appointed by the Chair of the Council.

Section 4. Number of Members. All committees shall have no less than three (3) and no more than five (5) members.

Section 5. Composition. The majority of members on committees shall be Council members. Membership may include other individuals in the community as may be appropriate, such as resource persons. Non-Council members of the committees shall have voting rights within their respective committees.

Section 6. Term. A term shall be for a period of one year. Members may serve successive terms at the discretion of the Chair of the Council.

Section 7. Quorum. A majority of the members to which the committee is entitled shall constitute a quorum for such committee.

Section 8. Reports and Recommendations. Committees shall prepare and present reports and minutes of meetings to the Council. Reports and actions of committees shall be advisory only and shall not be binding on the Council; and where action by the Council is requested or required, such reports and recommendations shall be placed on the agenda of the Council for action.

Article IX STAFF ASSISTANCE

Section 1. Office of Language Access. Staff services shall be provided where necessary to enable the Council to carry out its responsibilities on a timely basis.

Section 2. Duties. Staff assistance shall include, but not limited to the following:

- a. Draft by-laws and maintain an up-to-date copy, including original, of these by-laws at the Office of Language Access.
- b. Take, transcribe, and print minutes of meetings and maintain a book of minutes at the Office of Language Access.
- c. Prepare, print and disseminate notices of meetings as required by law.
- d. Make available for public inspection at any reasonable time during office hours, records of the Council to which the public has a right of access.
- e. Establish and maintain an up-to-date list of names and addresses of persons who request notification of meetings

Article X STANDARDS OF CONDUCT

Members of the Council or its committees shall comply with the provisions of Chapter 84, Hawaii Revised Statutes.

**Article XI
GENERAL PROVISIONS**

Section 1. Notice of Meetings. Written public notices of meetings, except emergency meetings, shall be filed in the Office of the Lieutenant Governor and posted in the Office of Language Access for public inspection at least six (6) calendar days before the scheduled time of the meeting. (Section 92-7, HRS)

Deleted: Section 1. Parliamentary Procedure. All meetings shall be conducted in accordance with Robert's Rules of Order, as most recently revised, provided that when State law imposes additional or different requirements, State law shall apply.

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- a. Notice Materials shall include an agenda listing all items to be considered; and the date, time, and place of the meeting. Notice shall be posted at the site of the meeting prior to the time of the meeting whenever feasible.
- b. Continued Meetings to a later date or time due to unfinished business shall be announced at the present meeting to inform attendees of the date, time, and place of the continued meeting, and also the items to be considered at that continued meeting.
- c. Dissemination of Notices shall be verified by mailing lists, and it shall be deemed that proper notice is given by deposit of such notice in the U.S. mail box addressed to the address registered with the Office of Language Access. The mailing must be done no later than the time the agenda is filed with the Lieutenant Governor's office.
- d. Agenda Changes may not be made once the notice is filed in the appropriate offices and disseminated through the U.S. mail service, unless the Council, at the meeting, by at least two-thirds recorded vote of all member to which the Council is entitled, approves of such changes. Reasons for making changes shall be given and recorded in the minutes of the meeting.

Section 2. Minutes of Meeting. Written minutes shall be prepared of all meetings. They shall reflect the matters discussed and the views of individual participants. (Section 92-9, HRS)

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- a. The date, time and place of the meeting;
- b. The members of the Council recorded as either present or absent;
- c. The substance of all matters proposed, discussed, or decided;
- d. A record, by individual member, of the votes taken; and
- e. Any other information that any member of the Council requests be included or reflected in the minutes.

Minutes of a meeting are public records and shall be made available within 30 days after the meeting is held.

Section 3. Speaking for the Council. Members may speak in the name of Council as specifically authorized by the Chair of the Council and the Executive Director of the Office of Language Access.

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Section 4. Conflict with Hawaii Revised Statutes. In the event that a conflict should arise between the by-laws and a provision of the Hawaii Revised Statutes (HRS) or an administrative rule adopted pursuant to Chapter 91 of the HRS, the statute or administrative rule would prevail.

Deleted: Section 5. Solicitation. Members may solicit funds in the name of the Council only when specifically authorized to do so, in writing, by the Chair of the Council and the Executive Director of the Office of Language Access.

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**Article XII
AMENDMENTS OF THE BY-LAWS**

These by-laws may be revised or amended by a majority vote of the Council.

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Adopted:
September 12, 2007