

# LANGUAGE ACCESS ADVISORY COUNCIL

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

Wednesday, September 12, 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 August 7, 2007 Meeting
3. Adoption of By-Laws
4. Appointment of Committee Chairs
5. OLA Executive Director's Report
6. Overview of Proposed OLA Administrative Rules
7. Community Feedback from Council Members
8. Survey of Language Access Budgetary Needs of Agencies
9. Discussion of Agenda for Next Meeting
10. Announcements:
  - Training on Sunshine Law
  - Language Access Conference Opportunities
  - Other 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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830 Punchbowl Street  
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Wednesday, September 12, 2007  
Multi-Purpose Conference Room 312

### MINUTES

The meeting was called to order at 9:50 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                   |
| - Alohalani Boido          | Language Access Advisory Council Member                   |
| - Sr. Earnest Chung        | Language Access Advisory Council Member                   |
| - Canisius Filibert        | Language Access Advisory Council Member                   |
| - Nāmaka Rawlins           | Language Access Advisory Council Member                   |
| - Dr. Tin Myaing Thein     | Language Access Advisory Council Member                   |
| - Dr. Suzanne Zeng         | Language Access Advisory Council Member                   |

##### Others Present:

- |                          |   |
|--------------------------|---|
| - Gary Ige               | Department of the Attorney General          |
| - M. Uilani Pauole de Sa | Senior Legal Analyst                        |
| - Shari Dela Cuadra      | Research Analyst, Office of Language Access |
| - Jeremy Low             | Research Analyst, Office of Language Access |
| - Merry Balatico         | Clerk                                       |
| - Kim Winegar            | Catholic Charities                          |

#### 2. Approval of minutes of August 7, 2007 meeting.

- On Page 2, number 7f, last two sentences should be amended to read: "Note: Because Hawaiian is the other official language of the State, it should be made obvious on the poster provided by our office. Namaka Rawlins has agreed to translate the information on the poster into Hawaiian.
- Motion to approve the minutes as amended by Mr. Asuncion, seconded by Ms. Rawlins.
- Minutes approved unanimously.

#### 3. Adoption of By-Laws

- As there were no further discussions, a motion to adopt the By-Laws was made by Ms. Rawlins and seconded by Mr. Asuncion.
- The motion carried unanimously.

#### 4. Appointment of Committee Chairs

- Legislative Committee Chair- Sister Earnest Chung
- Special Projects Committee Chair- Dr. Tin Myaing Thein
- By-Laws and Procedures Committee Chair- Ms. Namaka Rawlins
- Planning Review Committee Chair- Mr. Lito Asuncion

##### Discussion:

- a. Planning Review Committee
  - Scope of review other than monitoring (more of oversight to Act 290)
  - to include survey if process is working.
  - possibly rename "Planning Review Committee" next meeting.
- b. Ms. Boido suggested Language Preservation as another committee.

Members of the Committees, along with OLA staff, were also designated as follows:  
 Legislative Committee – Alohalani Boido and Bill Hoshijo (staff: Uilani Pauole de Sa).  
 Special Projects Committee – Canisius Filibert and Gerald Ohta (staff: Shari dela Cuadra).  
 By-Laws and Procedures Committee – Jun Colmenares.  
 Planning Review Committee – Namaka Rawlins and Suzanne Zeng (staff: Jeremy Low).

#### 5. OLA Executive Director's Report

- See written report.

##### Discussion:

- a. Set dates for one day Retreat or 2 half days prior to DLIR strategic planning in January.
- b. Regarding the Micronesian issue task force, OLA's role is to support the (OCS) Office of Community Services.
- c. Up-coming workshops to be held primarily in Honolulu since the majority of the outstanding covered entities that need to attend are located in town.

#### 6. Overview of Proposed OLA Administrative Rules

Monique "Uilani" Pauole de Sa, Senior Legal Analyst, provided the Council with an overview of the rulemaking process (*see attached*). She also wanted a consensus from the Council in regards to getting preliminary feedback from stakeholders prior to preparing the rules.

##### Discussion:

- a. Gary Ige (AG) suggested to go back to the original stakeholders (groups that pushed for the passage of the language access law) and get their feedback.

#### 7. Community Feedback from Council Members.

- Concern that OLA office requiring covered entities to submit a plan.
- Need for a Language Bank and to centralize resources.
- Need for quality interpretation services, qualified and competent interpreters, need for training and certification
- Budgetary problems- costs for interpreting services

- Staffing issues- would a multi-lingual applicant take precedence over an English speaking-only individual.
8. Survey of Language Access Budgetary Needs of Agencies
- to be discussed at the October 1<sup>st</sup> meeting of state language access coordinators.
9. Discussion of Agenda for Next Meeting
- Premium Training Services:
    - a. No resources to train
    - b. Affordability of training sessions
    - c. Recruitment of interpreters
  - Mr. Hoshijo suggested that the AG Office could look for any Title VI challenges (suits or complaints) to bring forth to the Legislature as an “affirmative way of looking” to get funds.
  - Funds from Federal Government
  - Outside grants for funding
  - Language preservation, standards, etc...
10. Announcements:
- Training on Sunshine Law  
Office of Information Practice (OIP) to be held in March
  - Annie Casey Foundation’s Language Access Convening Group Conference  
To be held probably in December 2007
  - Next OLA Advisory Council Meeting to be held on October 2, 2007 at 9:30 am
11. Adjournment:
- There being no further discussions, the meeting was adjourned at 11:40 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.

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.

#### **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)**

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.

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 1<sup>st</sup>.

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)

- 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)

- 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.

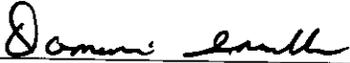
Section 3. Speaking for the Council. Members may speak in the name of Council as specifically authorized by the Chair of the Council and the Executive Director of the Office of Language Access.

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.

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

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

Adopted on September 12, 2007.

  
\_\_\_\_\_  
Dominic Inocelda  
Chair

**Language Access Advisory Council Meeting  
September 12, 2007**

The following is the report of the OLA Executive Director for the preceding month:

Staffing/Operations:

- We are fully staffed. The senior legal analyst (Monique Uilani Pauole de Sa) came on board on August 13; a replacement (Merry Lyn Balatico) for our clerk typist joined us on August 16; and we hired a legal clerk (Carol Ann Rodrigues) on September 4, 2007.
- Administrative rules are being prepared.

Compliance Assistance:

- All 17 federally-funded state agencies are in compliance. Of the remaining 8 non-federally funded state agencies, only DCCA has submitted, but staff is working with the rest. Covered entities who have submitted plans so far include Dept. of Community Services (Honolulu), Po'ainani, Inc., and North Shore Mental Health, Inc.
- Held six workshops in Honolulu on Hawaii's Language Access Law, with more than 160 attendees. Additional workshops in Honolulu scheduled on September 4, 14, 18, 21 and 27, and on the neighbor islands: September 14 in Hilo, September 17 in Kona, September 19 in Kauai, and September 24 in Maui.
- Staff continues to work with individual agencies in the development of their plans.

Education and Outreach:

- Printed a rack card "Know Your Rights" in six languages (English, Tagalog, Ilocano, Japanese, Chinese, and Korean).
- Started discussions with the Office of Community Services, and will be meeting with DOE, on ways to outreach to and assist the Micronesian community with their language access needs.
- Informational table during the September 7, 2007 Annual Conference of the Hawaii State Coalition Against Domestic Violence (theme: Embracing Diversity) at the Koolau Golf & Country Club. Also participating in the 2007 Seniors' Fair at the Blaisdell Center on September 21-23, 2007 (sharing a booth with the Executive Office on Aging/SagePlus).

Report to the Governor:

- Gave an oral report to the Governor on August 24 on what OLA has done so far. She said we are off to a "good start" and wished us good luck. She would like to see representation of the neighbor islands in the advisory council and expressed concerns about the language access needs of Micronesians at Naahelu School on the Big Island. After the meeting, staff followed up on this case with DOE; DOE later on informed us that had already taken action on this issue.

Next Steps:

- Finalize administrative rules and complaints process.
- Meeting of all language access coordinators on October 1, 2007 to discuss implementation issues, and a follow up meeting to discuss and consider possible solutions to issues.
- One-day retreat for OLA staff and advisory council members to discuss and finalize OLA's 5-year strategic plan.

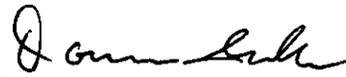
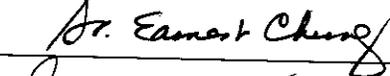
## Overview of Rulemaking Process

- Collection, development, input for draft rules
  - \*Stakeholder/Public input – potential setback area if wait to get public input at the public hearing and there are substantive changes to the rules
- Pre-public hearing
  - Prepare and submit a “Small Business Impact Statement”
  - Attorney General’s approval as to form; *Note*: A.G. & Dept. review: 2 rounds, minimum 6 months;
  - After A.G. approves, then submit to the Governor for approval for public hearing;
  - Approval packet includes: (1) proposed rules, (2) justification information outlined; (3) copy to Director of Budget and Finance review and approval; and (4) copy to Director of Business, Economic Development, and Tourism for review and approval
- Public hearing
  - Publish the Notice of Public hearing
  - Notice - must summarize any business impact described in the “Small Business Impact Statement” if the proposed rule affects small business.
  - Notice - must also state any new fee or compliance burdens that will affect small business.
- Post-public hearing / Final approval of Proposed Rule after public hearing
  - Governor approval is required - includes review again by the Governor, B&F, DBEDT.
  - A.G. must get a copy and approve as to form.
  - \*\*Possible 2ND public hearing if, after the public hearing, substantial or material changes are required. The pre-hearing, hearing, and post hearing processes would be repeated if a 2<sup>nd</sup> public hearing is needed.
- Distribution of Approved Adopted Rules
  - 3 copies of complete set approved by the Governor and filed with the Lt. Governor
  - Lt. Governor – must provide 1 copy to the adopting agency
  - LRB copies - Department/agency must submit one file-stamped and certified copy of the rule in Ramseyer and standard formats to LRB

OFFICE OF LANGUAGE ACCESS ADVISORY COUNCIL MEETING  
 SEPTEMBER 12, 2007

LANGUAGE ACCESS ADVISORY COUNCIL  
 STATE OF HAWAII  
 DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
 830 Punchbowl Street Rm# 321  
 Honolulu, Hawaii 96813

ROLL CALL/ ATTENDANCE  
 SEPTEMBER 12, 2007  
 9:30 TO 12:00 (NOON)

Name/Guest	Signature	Phone Number
*Tin Myaing Thein Pacific Gateway Center		851-7010
*Alohalani Boido Hawaii Interpreter Action Network		946-2558
*Canisius Filibert Micronesia Community Network		441-1343
*Nāmaka Rawlins Aha Punana Leo; UH-Hilo Hawaiian Language Center		935-4304
Gerald Ohta Department of Health; vice-chair		64616
*Lito Asuncion Hawaii County Office on Aging		961-8600
*Dominic Inocelda Inter-Agency Council on Immigrant Services; chair		554-1006
*Sr. Earnest Chung Catholic Charities Hawaii		527-4461
*Dr. Suzanne Zeng UH Center for Interpretation and Translation Services		383-8594
Bill Hoshijo Hawaii Civil Rights Commission		586-8636
Serafin "Jun" Colmenares Office of Language Access		
Gary Iges DAG - Attorney General		586-1450

