

OLA QUARTERLY

Official Newsletter of the
Office of Language Access, State of Hawai'i
O ka 'ōlelo ke ola - Language is Life



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OLA Executive Director Reappointed

Serafin "Jun" Colmenares was recently reappointed by Governor Neil Abercrombie as Executive Director of the Office of Language Access effective February 5, 2011.

Jun Colmenares was originally appointed to the position by former Governor Linda Lingle on April 2007. His term expired on December 6, 2010 but was temporarily extended by the incoming governor until February 4, 2011 or until a new appointment is made to help "in minimizing disruptions to public services and ensuring smoother transition."

Prior to his appointment to OLA, Jun Colmenares held positions at the Executive Office on Aging of the Department of Health as well as at the Hawaii Community Foundation. He also worked with Catholic Charities, the Lanakila Easy Access Project, Bilingual Access Line, the Hawaii Medical Services Association, and the East-West Center. He was a lecturer at UH Leeward Community College and Chaminade University and was a member of the faculty of the Mindanao State University in the Philippines before coming to Hawaii in 1988. He holds a bachelor's degree in Political Science from the Mindanao State University, a master's degree in Public Health from UH-Manoa and M.A. and Ph.D. degrees in Political Science from the University of Delhi in India.



NEW DLIR DIRECTOR, DEPUTY DIRECTOR APPOINTED

Dwight Takamine, a labor lawyer and legislator, was recently appointed by Governor Neil Abercrombie as director of the Department of Labor and Industrial Relations. He has served in the state Legislature for 26 years, representing Hilo, Honokaa and Waimea. Sen. Takamine was first elected to the state House of Representatives in 1984 and later elected to the State Senate in 2008. He served as chairman of the Senate Labor Committee, House Labor and Public Employment Committee, House Finance Committee and House Water and Land Committee. Director Takamine, 57, spent 30 years practicing law in Hawaii with a general focus on labor-related cases. He graduated from Honokaa High School, UH-Manoa and William S. Richardson School of Law.

Appointed as deputy director of the Department of Labor and Industrial Relations was **Audrey Hidano**. She has worked in Hawaii's construction and business industry for almost 40 years. Ms. Hidano, 65, co-founded two construction companies, including the Hidano Construction, Inc. in 1974 that specializes in residential and light commercial construction and Rim-Pac, Inc. in 1993 that specializes in solid surface work. Ms. Hidano previously held the position as the deputy director of the state Department of Labor and Industrial Relations from 2000 to 2002. Ms. Hidano was also the president of the Building Industry Association of Hawaii from 1999 to 2000. She is a graduate of McKinley High School and Honolulu Business College.

Congratulations and welcome to both!



Dwight Takamine



Audrey Hidano

Message from the Executive Director

Aloha! During the last three months of the year, the office has focused on several things:

First, we made sure that the language access workshops for state, county and nonprofit agencies on the neighbor islands were held. With the support of DLIR director Pearl Iboshi, we were able to conduct trainings on Maui (November 12), Kauai (November 22), Hilo (December 1) and Kona (December 2) on two major topics: Serving LEP Individuals Through Interpreters, and The Role of Bilingual Staff.

Second, we were able to finish and submit OLA's annual report to the Governor and the Legislature. In that report, we recommended, first and foremost, the filling of the two staff positions that were restored by the 2010 legislature, as well as the adoption of the recommendations made from the 2nd OLA Retreat.

In addition, we were able to post on the OLA website all PowerPoint presentations (except that of Ed Teixeira) delivered during the 3rd Annual Hawaii Conference on Language Access. O'lelo also aired the conference proceedings on various dates and television stations in November and December 2010.

I would like to take this opportunity to congratulate and welcome our new DLIR leaders—Director Dwight Takamine and Deputy Director Audrey Hidano. I wish them and the new administration well as they, together with all of us, embark on the voyage to “a new day in Hawaii.”

I would like also to thank Governor Neil Abercrombie for reappointing me as OLA executive director. I am very happy and excited to be able to pursue the work that we have started. Mahalo also to all those who supported me and OLA through thick and thin. I look forward to continue working and collaborating with all of you in the coming years.

Finally, since it is a New Year—here's wishing all of you *Haouli Makahiki Hou!* OLA extends to one and all our hope—borrowing from Marjory Bancroft—that cultural and linguistic minorities in Hawaii and the world gain increased access to public services and quality language assistance this new year.

COURT INTERPRETERS WANTED

The Hawaii State Judiciary would like persons fluent in English and another language to apply for its 2011 Court Interpreter Certification Program. The registration fee is \$95, and the program is held annually on two consecutive days on Oahu, Maui, Kauai and in Hilo and Kona on the Big Island. The registration deadline is January 31. Applicants must be at least 18 years old.

Persons who can interpret in Chuukese, Marshallese, Pohnpeian, Kosraean, Tongan and Samoan are especially needed. Certified sign language interpreters are also encouraged to apply. Application forms may be obtained at www.courts.state.hi.us/courtinterpreting or by contacting the Judiciary's Office on Equality and Access to the Courts at 539-4860. The email address is oeac@courts.state.hi.us.

Court interpreters work on a freelance basis as independent contractors in criminal or certain civil cases when parties or witnesses are unable to hear, understand, speak or use English sufficiently. Depending on their performance on written and oral exams, court interpreters are paid between \$25 to \$55 per hour with a two-hour minimum.

The requirements for certification include successful completion of the two-day orientation workshop, achieving a passing score on a written English proficiency and court interpreter ethics exam, clearing a criminal background check, and achieving a passing score on an oral certification exam in a non-English language.

The workshops will be held on: Oahu: February 19-20, 2011; Maui: March 9-10, 2011; Kauai: March 2-3, 2011; Hilo: February 24-25, 2011; and Kona: March 30-31, 2011.

*Hawaii State Judiciary
Communications and Community Relations Office*

Neighbor Island Workshops

OLA successfully held language access workshops on the neighbor islands during the months of November and December 2010. The workshops focused on “Serving LEP Individuals Through Interpreters” and “The Role of Bilingual Staff.”

A total of 46 participants attended the workshops on Maui (November 12, 2010), while 37 attended the workshops on Kauai (November 22, 2010). On the Big Island, 54 availed of the workshops in Hilo (December 1, 2010) and 25 attended in Kona (December 2, 2010).

A big mahalo to our neighbor island council members—Mary Santa Maria of Maui, Azi Turturici of Kauai, and Lito Asuncion of the Big Island—for making all the arrangements for the trainings, and to Gail McGarvey of the DLIR Director’s Office for helping out with the on-line registration of participants and the travel arrangements.

A preliminary review of the evaluation sheets show that participants found the workshops excellent and that the information provided by the workshops was very applicable to their jobs. Some of their comments are:

- Impressive speakers—very knowledgeable, informative, thorough.
- Enjoyed the hands-on exercises. Good examples. Great tips.
- Workshops need to be given (mandatory) to administrators and directors and finance personnel. Oahu administration needs to recognize problems on neighbor islands regarding accessibility of competent interpreters.
- We need more classes like these. Make them more available to the community.
- Make workshops longer. Need more time.

Participants look forward to additional training on related topics in the near future. Suggested topics include the following:

- cultural aspects of interpretation;
- note-taking;
- contractor role and responsibilities;
- training for first responders and crisis workers;
- components of a language access plan;
- screening of interpreters;
- use of technology in interpretation;
- how to become an interpreter;
- how to access interpreters;
- organizing on LEP issues.

OLA hopes to address some of these topics in future trainings on Oahu and the neighbor islands. As of this writing, OLA has already entered into some arrangements with the SMP Program of the Executive Office on Aging for the holding of training sessions on cultural competency sometime in April.



Trainer Dew Kaneshiro and part of the training class in Hilo, Big Island.

Mahalo to our trainers—Dr. Suzanne Zeng and Dew Kaneshiro—for a job well done!

Top Languages Spoken by English Language Learners Nationally and by State

(by Batalova, Jeanne and Margie McHugh, *ELL Information Center Fact Sheet Series, No. 3, 2010*, Washington D.C., Migration Policy Institute)

- I. **Spanish is the Language Most Often Spoken by English Language Learners (ELLs).** While ELL students around the nation speak more than 150 languages, Spanish is by far the most common home or first language (73.1 percent), according to our analysis of the Census Bureau's 2009 American Community Survey.
 Second in frequency of use is Chinese, which is spoken by roughly 3.8 percent of ELLs, followed by Vietnamese (2.7 percent), and French/Haitian Creole (2.1 percent). Of the remaining top ten languages, no other language accounts for more than 2 percent of the total. Six of the top ten—Chinese, Korean, Hindi, Arabic, Russian, and Miao/Hmong—are not based on the Latin alphabet.
 The U.S. Department of Education reports that an overwhelming majority of ELLs (77.2 percent, or more than 3.6 million) enrolled nationwide in school year 2008-2009 spoke Spanish. The next two most commonly spoken languages, Vietnamese and Chinese, accounted for only 1.8 percent and 1.4 percent, respectively. Hmong and Arabic each were spoken by about 1 percent of ELL students.
- II. **Spanish Is Not the Top Language Spoken by ELLs in Every State.** According to U.S. Department of Education data, a language other than Spanish was the top language spoken by ELLs in seven states.
 In five of these states, the ELL population was composed of speakers of indigenous languages such as Yupik in Alaska, Ilocano in Hawaii, Objibwa in North Dakota, Dakota in South Dakota, and unspecified North American Indian languages in Montana.
 Vermont and Maine are states in which a diverse range of refugee populations have resettled over the course of the last two decades. This explains why the top language spoken by ELL students in Vermont is Bosnian, and in Maine is Somali. Minnesota is another state in which languages of refugee groups—Hmong, Somali, and Vietnamese—are among the top five languages spoken by ELLs in the state.
- III. **In Many States, One Language Predominates.** In 28 states, more than two-thirds of ELL students speak the same home language and that language is Spanish. In 13 of these states, 80 percent or more of ELL students speak Spanish. These states included those with traditionally large populations of Spanish-speaking immigrants (e.g., Texas and California) as well as new destination immigrant states (e.g. Wyoming, Arkansas, and Colorado).
 While the high frequency of one home language may give school districts opportunities for economies of scale in providing education services to ELL students and in communicating with their parents, it can also complicate the development of effective services for those speaking less common languages.
- IV. **In a Number of States, ELLs are Linguistically Heterogeneous.** Other states have ELL student populations that speak a diverse set of languages. In ten states, less than half of ELL students spoke the top language. For example, in Vermont, only 11 percent of students speak Bosnian, the state's top language of ELL students, while another 36.5 percent spoke the next four languages (Cushitic, Spanish, Vietnamese, and Chinese). In Ohio, 40.2 percent spoke the top language (Spanish) but the other top languages—Somali, Arabic, German, and Japanese—represented different world regions and together accounted for 20.7 percent.

(OLA Note: The top five languages spoken by ELL students in Hawaii are: Ilocano (21.4 percent), Chuukese, Marshallese, Tagalog, and Spanish.)

The ELL Information Center can be found at www.migrationpolicy.org/ellinfo.html.

News From Other States

Court Rules That Defendants With Limited English Proficiency Have A Constitutional Right To Court Interpreters

November 22, 2010

ATLANTA The Supreme Court of Georgia ruled today that defendants with limited English proficiency (LEP) have a constitutional right to court interpreters in criminal trials. The ruling came in a case in which the American Civil Liberties Union, the ACLU of Georgia and Legal Aid Society - Employment Law Center (LAS-ELC) filed a friend-of-the-court brief asserting that denying LEP defendants interpreters violates the U.S. Constitution and civil rights laws.

"The court acknowledged that we don't have two systems of justice in this country one for English-speakers and another for everyone else," said Azadeh Shahshahani, Director of the National Security/Immigrants' Rights Project at the ACLU of Georgia. "The constitutional guarantee of due process applies to everyone in this country, not just fluent English-speakers."

The ACLU and LAS-ELC submitted their brief on behalf of Annie Ling, a Mandarin Chinese-speaker who was sentenced to 10 years in prison and five years probation after a trial without any interpreter to assist her. Because of her limited English, Ling did not understand that she had the option to plead guilty rather than going to trial and facing a much longer sentence. At her trial, she could not understand the testimony for or against her. Her own trial attorney admitted that because of Ling's limited English skills, he could not properly communicate with her without an interpreter. However, the attorney decided not to ask the court for an interpreter because he felt it would make the trial "take a lot longer" and make the jury "impatient."

Ling's conviction was appealed to the Georgia Supreme Court, which today vacated the ruling upholding her conviction and sent her case back to the Georgia trial court.

"In America, state justice systems are required to ensure that all people, regardless of their primary language, have equal access to a fair trial and that includes the right to an interpreter and competent legal counsel," said Araceli Martez-Olgu, an attorney with LAS-ELC. "A person's guilt or innocence cannot be fairly determined at a trial that is incomprehensible to the defendant."

The ACLU's and LAS-ELC's brief argued that denying LEP individuals interpreters during criminal trials violates the U.S. Constitution's guarantee of due process under the Fifth and Fourteenth Amendments, as well as the Sixth Amendment rights of criminal defendants to confront witnesses, be present at their own trial and receive effective assistance of counsel. In addition, Title VI of the federal Civil Rights Act of 1964 requires the state of Georgia to provide competent interpretation services to all LEP individuals who come into contact with its court system. The court's opinion agreed with the groups' brief that the right to an interpreter is guaranteed by the Sixth Amendment and the due process clause of the Fourteenth Amendment. The Georgia Supreme Court also instructed all Georgia state courts to practice "vigilance in protecting the rights of non-English-speakers" and to provide "meaningful access" to LEP individuals in order to comply with Title VI.

Attorneys on the case, *Ling v. Georgia*, are Jennifer Chang Newell and David Wakukawa (a volunteer attorney) of the ACLU Immigrants' Rights Project, Shahshahani and Chara Fisher Jackson of the ACLU of Georgia and Martez-Olgu of the Legal Aid Society - Employment Law Center.

The ACLU's brief can be found online at: www.aclu.org/immigrants-rights/ling-v-state-georgia-amicus-brief.

The court's decision can be found at: www.aclu.org/immigrants-rights/ling-v-state-georgia-decision.

(Article courtesy of M. Alohalani Boido)

"Cultural competence begins with empathy for other cultures. It is rooted in the sense that no one culture is superior to another. It thrives with the perception of mutual respect.

To work successfully with those of diverse cultures means respecting the unfamiliar, learning to move past preconceptions and developing our awareness of the ways that values shape our judgments."

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OFFICIAL NEWSLETTER OF THE
OFFICE OF LANGUAGE ACCESS
STATE OF HAWAII'

"O KA OLELO KE OLA" - LANGUAGE IS LIFE



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AUDIT REVEALS CALIFORNIA NOT COMPLYING WITH BILINGUAL SERVICES LAW

A recent statewide audit in California has shown that state and local agencies are failing to provide vital government services to many Californians with limited English skills. The California State Auditor's report found that many agencies either do not know of their responsibilities or are not fully meeting the legal requirements to aid limited English speaking residents whom they serve.

The Dymally-Alatorre Bilingual Services Act, signed into law in 1973 by then-governor Ronald Reagan, is intended to ensure that Californians with limited English skills are able to access critical government services such as food assistance, health care, police, fire and other emergency services.

The audit alarmed immigrants rights groups since it showed very little movement towards full compliance in the 11 years since the last audit in 1999, which found that awareness and implementation of the bilingual services law was practically non-existent. Since then, California's linguistic diversity has further evolved, and according to community advocates and their experience on the ground, agencies have continued to let a gap in services grow.

"Even though California has a law requiring government agencies to communicate effectively with all of their clients, the reality is far different," says Karin Wang, vice president of programs and communications at the Asian Pacific American Legal Center (APALC). "Without effective enforcement of Dymally's requirements, our community members continue to be denied or delayed vital services based on language barriers."

Over 6 million Californians, or 20 percent of the population, is limited English proficient (LEP). In cities like San Francisco, 13 percent of households are "linguistically isolated," where no one over the age of 14 is deemed proficient in English. In Southern California, where Latinos and Asians make up more than half the population, 45 percent of Latinos, and 40 percent of Asians, are LEP. In a disaster-prone state like California, language barriers can endanger the safety of residents and greatly impact how well communities prepare for emergencies such as earthquakes or fires or even civil unrest. On a broader level, language barriers can undermine government accountability and threaten democratic values.

While not surprised about the audit's findings, advocates hope that it will serve as a wake-up call to state and local agencies.

(From *Hawaii Filipino Chronicle*, 11/27/10, p. 13.)

Dates to Remember

January 19, 2011 —Language Access Advisory Council Meeting, 9:30 to 11:00 a.m., DLIR Conference Room 320, 830 Punchbowl Street, Honolulu.

January 25, 2011—Language and Cultural Access Summit, 9:00 a.m. to 4:00 p.m., Ohana Honolulu Airport Hotel, Honolulu. Sponsored by the Hawaii Immigrant Justice Center at the Legal Aid Society of Hawaii.

January 25, 2011—Webinar: Communicating More for Less: Choosing Translation and Interpretation Technologies, 10:00 a.m. Sponsored by the Migration Policy Institute.

February 9, 2011 —Language Access Advisory Council Meeting, 9:30 to 11:00 a.m., DLIR Conference Room 320, 830 Punchbowl Street, Honolulu.

March 9, 2011 —Language Access Advisory Council Meeting, 9:30 to 11:00 a.m., DLIR Conference Room 320, 830 Punchbowl Street, Honolulu.