

Hawai'i has one of the highest per-capita rates of limited English proficient persons (LEP) in the nation. In 2006, to ensure meaningful access to services, programs and activities by LEP persons, Hawai'i became the first state in the nation to pass a comprehensive language access law that removes language barriers to State and State-funded services. Hawai'i's law mirrors a similar federal law.

The same law also established the Office of Language Access (OLA). OLA works to ensure that persons who do not speak, read, write, or understand English are able to access services, programs and activities provided by: State government agencies, courts, and schools; and State-funded organizations, including medical and social service providers. OLA also provides oversight and central coordination to State agencies, as well as technical assistance to State and State-funded entities in the implementation of the law.



FOR MORE INFORMATION

State of Hawai'i
Office of Language Access
830 Punchbowl Street, Room 322
Honolulu, Hawai'i 96813
Telephone: (808) 586-8730
Toll Free: 1(866) 365-5955
<http://www.health.hawaii.gov/ola/>

U.S. Department of Justice
Civil Rights Division
Coordination and Review Section – NYA
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
Hotline: 1-888-848-5306

Limited English Proficiency (LEP)
Federal Interagency Website
<http://www.lep.gov>



STATE OF HAWAII

LANGUAGE ACCESS & THE LAW

*What State Agencies and
State-funded Entities Need
to Know About Providing
Services to Limited English
Proficient (LEP) Persons*

LEGAL AUTHORITY

Title VI of the 1964 Civil Rights Act

“No 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 funding.”

Executive Order 13166 and Implementing Regulations

The Executive Order and its implementing regulations require Federal agencies to: examine the services they provide; take reasonable steps to ensure meaningful access to their programs and activities by LEP persons; and develop and implement a Language Access Plan to ensure effective communication with LEP persons.

Hawai‘i Revised Statutes, Chapter 321C

This law requires State and State-funded agencies to: examine the services they provide; take reasonable steps to ensure meaningful access to their programs and activities by LEP persons; and develop and implement a Language Access Plan to ensure effective communication with LEP persons.

Where meaningful language access is not provided, OLA is authorized to eliminate the language barrier through informal means, or through a formal opinion letter where informal means are unsuccessful.

Denial of language access is a form of national origin discrimination. Where the denial is intentional, a lawsuit may also be filed in a federal or state court.

LANGUAGE ACCESS OBLIGATIONS

Four Factor Analysis

Federal and state government agencies, as well as non-government agencies, that receive state or federal funding, have an obligation to ensure meaningful access by LEP persons to services, programs, and activities. An analysis that balances the following four factors is the starting point to assess compliance with state and federal language access laws:

1. The number or proportion of LEP persons eligible to be served or encountered by the program;
2. The frequency with which LEP persons come into contact with the services, programs, or activities;
3. The nature and importance of the program, activity, or service provided by the program;
4. The resources available and costs to the recipient.

Develop and Implement a Language Access Plan

Agencies must develop and implement a Language Access Plan (LAP) that should :

- Utilize census data and assure consultation with stakeholders to help identify LEP persons who need assistance;
- Identify how oral language assistance will be provided;
- Identify vital documents to be translated;
- Provide for staff training;
- Identify different ways to provide notice to LEP persons about language accessible services;
- Include a plan to monitor and adjust services to assure meaningful access.

Important Considerations in the Development and Implementation of a Language Access Plan

- Free and competent oral interpretation services should be offered to LEP persons. A competent oral interpreter is able to: communicate effectively in English and the other language; knows specialized terms in both languages; and follows interpreter code of ethics and confidentiality guidances.
- Written translations of vital documents should be done for frequently encountered languages. Vital documents include: written notices of rights, applications for services, hearing notices, consent forms, notices of denials or changes in benefits, and important information included in agency brochures, websites, or other social media platforms.
- Use the safe harbor requirement as a starting point to assess written translation compliance. Under state and federal safe harbor laws, agencies are required to provide written translation of vital documents for each eligible language group that constitutes 5% or 1,000 persons, whichever is less, of the population eligible to be served, or likely to be affected or encountered. If there are less than 50 people in a language group, LEP persons must be provided written notice of the right to receive free oral interpretation of written materials.

For more information, visit our website:

www.health.hawaii.gov/ola