



Language Access Law Basics & OLA's Functions and Resources

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Working with LIMITED ENGLISH PROFICIENT (LEP) Individuals
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Our Audience's Profile

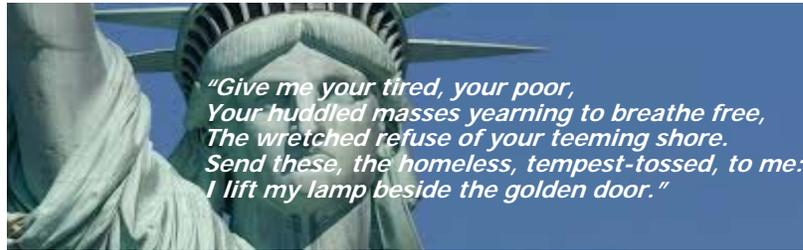
- ▶ Who here speaks English as a second language?
- ▶ Who here has a parent who is LEP?
- ▶ Who here has/had a grandparent who is LEP?

(A cross-section of Hawaii's population)

Why Language Access ?

The Promise of 'America'

- ▶ Historically, our diversity has defined American society. Our country has expressly opened its arms to immigrants – the “huddled masses”.



Why Language Access?

It's Better for Society

- ▶ After several generations, most individuals living in the United States now speak, read, write and understand English. But this should not obscure the fact that so many living here are limited English proficient (LEP).
(Remember, English is not the 'Native' language of our land.)
- ▶ Language for LEP persons can be a **barrier** to accessing important benefits or services, understanding and exercising important **rights**, complying with applicable **responsibilities**, or understanding other information provided by government and government-funded programs and activities.
- ▶ Denial of Language Access can be **costly** in lost opportunity, lost human capital, and increased damage control.

Language Access is a CIVIL RIGHT

- ▶ Language access – is a CIVIL RIGHT. It is the provision of language services (interpretation and translation) to limited English proficient (LEP) individuals to ensure meaningful access to government services, programs and activities.

Federal and State Mandates & Case Law

- Title VI, Civil Rights Act of 1964
- Lau v. Nichols, 414 U.S. 563 (1974)
- Executive Order 13166 (2000) & Related Regulations/Guidance
- Hawaii's Language Access Law (2006), Chapter 321c, Hawaii Revised Statutes

Title VI – Civil Rights Act of 1964



Title VI – Civil Rights Act of 1964

- ▶ 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 financial assistance.

Lau v. Nichols

In 1974, the US Supreme Court held in **Lau**, that Title VI requires federally funded entities to provide language access sufficient to give LEP people *meaningful* access to a recipient's programs and activities. Denial of such access constitutes "**national origin**" discrimination.



Source: Historical Photograph Collection of San Francisco Public Library's San Francisco History Center.

Executive Order 13166 (2000)

President Clinton

- ▶ Purpose was to improve access to federal government services for persons with limited English proficiency (LEP).
- ▶ Required each federal agency to prepare a **Language Access Plan** to improve access to its federally conducted programs and activities by eligible LEP persons, consistent with the compliance standards set forth by the LEP guidance issued by the DOJ- released on same date.
- ▶ Required each federal agency to draft its own guidance, reflective of principles in DOJ guidance.

Resources on Language Access Compliance:

Check your federal agency counterpart for LEP Guidance. <http://www.lep.gov/>

The screenshot shows the LEP.gov website interface. At the top, it reads "Limited English Proficiency (LEP) A Federal Interagency Website" and "LEP.gov Mission Statement". A left-hand navigation menu lists various categories such as "LEP Information", "Frequently Asked Questions", "Executive Order 13166", "Resources by Subject", "Interpretation and Translation", "LEP and Title VI Videos", "Demographic Data", "LEP Resources and Compliance", "Federal Agency LEP Plans", "LEP Guidance for Recipients", "DOJ LEP Guidance for Recipients", "Recipients of Federal Assistance", "File a Complaint with DOJ", and "DOJ Agreements and Settlements". The main content area is titled "Federal Agency LEP Guidance for Recipients" and includes a paragraph explaining Executive Order 13166. Below this, it says "Select an Agency Below to View its LEP Guidance Materials for Recipients" and lists 20 federal agencies in two columns: Department of Agriculture (USDA), Corporation for National Community Service (CNCS), Department of Commerce (DOC), Department of Defense (DoD), Department of Education (ED), Department of Energy (DOE), Department of Health and Human Services (HHS), Department of Homeland Security (DHS), Department of Housing and Urban Development (HUD), Department of Justice (DOJ), Department of Labor (DOL), Department of State (DOS), Department of the Interior (DOI), Department of Transportation (DOT), Department of the Treasury (Treasury), Department of Veterans Affairs (VA), Environmental Protection Agency (EPA), General Services Administration (GSA), National Aeronautics and Space Administration (NASA), National Archives and Records Administration (NARA), National Endowment for the Arts (NEA), National Endowment for the Humanities (NEH), National Science Foundation (NSF), Nuclear Regulatory Commission (NRC), Office of Management and Budget (OMB), and Small Business Administration (SBA).

Language Access in Hawaii



KEY POINT

Prohibition against National Origin Discrimination

HRS sec. 321C-1 provides: “The purpose of this chapter is to affirmatively address, on account of national origin, the language access needs of limited English proficient persons.”

FOUNDATIONAL CONCEPT- What is LEP under Hawaii Law?

A “Limited English Proficient [LEP] individual” is defined under Hawaii Law as:

“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.”

HRS sec. 321C-2

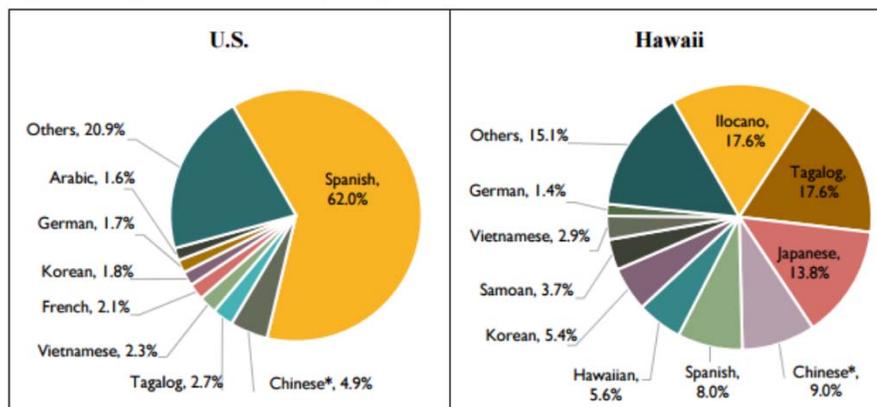
Hawaii's LEP Profile

based on U.S. Census Bureau, 2009–2011 American Community Survey Public Use Microdata Sample (PUMS) from DBEDT

- ▶ Out of Hawaii's total population of 1,361,628; more than **24%** or 329,827 speak a language other than English at home.
- ▶ Out of those who speak a language other than English at home, 151,187 or **46% are LEP**.
- ▶ Out of the total LEP population, 125,602 or 83% live on Oahu.
- ▶ Out of the total LEP population, 80% are Asian language speakers while more than 13% are Native Hawaiian and Pacific Island language speakers.

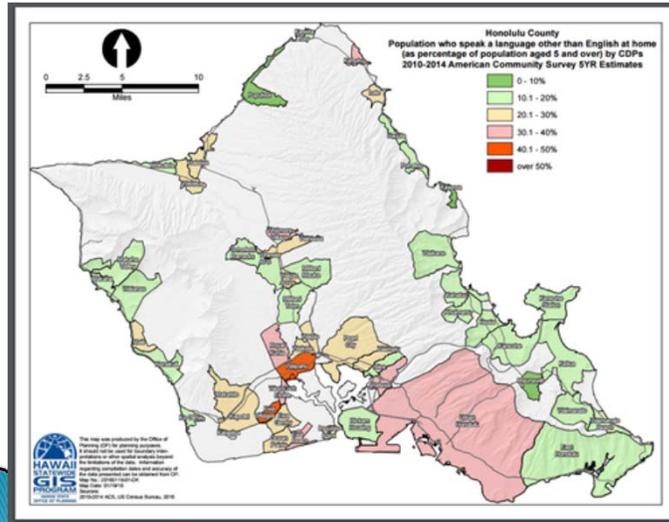
Hawaii's LEP Profile – DBEDTs' April 2016 Report: "Non-English Speaking Population in Hawaii"

Figure 5. Languages other than English spoken at home: Hawaii vs. the U.S.



Source: National statistics: U.S. Census Bureau, ACS 2010-2014 5 year, table B16001, Hawaii statistics are estimates by DBEDT based on Public Use Microdata Sample of the 2010-2014 5 year ACS
 *Chinese includes Mandarin, Cantonese and other Chinese languages

Hawaii's LEP Profile – DBEDTs' April 2016 Report: “Non-English Speaking Population in Hawaii”



Hawaii's LEP Profile – DBEDTs' April 2016 Report: “Non-English Speaking Population in Hawaii”

Major findings in the report are:

- About one-in-four Hawaii residents aged 5 and older spoke a language other than English at home in the 2010-2014 period.
- The number of non-English speakers at home in Hawaii increased by 44 percent from 1980 to 2014. As the total population in Hawaii grew at a similar rate during the period, the proportion of non-English speakers to the total population remained about the same.
- Non-English language speaking at home was more prevalent in Honolulu County than in the neighbor island counties. The proportion of non-English speakers was highest in Honolulu County at 28 percent and lowest in Hawaii County at 19 percent.
- Ilocano, Tagalog, and Japanese were the top three most common non-English languages spoken at home in Hawaii. Speakers of these three languages made up about half of non-English speakers at home in Hawaii.

Top 25 Languages Spoken by LEPs who Speak English Less Than Very Well in the State of Hawaii -- 2009-2013

by total number of speakers of non-English language who speak English less than very well

OLA Note: This table re-ranked the top 25 languages other than English spoken in Hawaii, and reflects the top languages of those who "Speak English less than very well" aka "LEP".

The charts are nearly identical on upper-end.

Rank	Language	Speak English less than "Very Well"	% speak English less than "Very Well"
1	Ilocano	33,085	61.3
2	Tagalog	30,147	51.7
3	Japanese	21,262	46.6
4	Chinese*	19,530	63.2
5	Korean	11,713	67.8
6	Spanish	7,010	27.5
7	Vietnamese	6,686	71.0
8	Samoa	4,400	34.4
9	Marshallse	3,840	55.4
10	Trukese	3,410	76.2
11	Hawaiian	3,010	16.2
12	Micronesian	2,210	55.7
13	Bisayan	1,640	54.6
14	Tongan	1,515	39.2
15	Laotian	1,462	64.2
16	Thai	1,045	54.4
17	German	825	17.9
18	French	715	16.2
19	Indonesian	570	64.8
20	Ponapean	445	62.2
21	Russian	347	29.7
22	Portuguese	320	16.7
23	Chamorro	235	28.7
24	Pidgin	185	14.5
25	Italian	106	16.2

*Includes Cantonese and Mandarin.

Source: Research and Economic Analysis Division, DBEDT.

Top 25 Languages Spoken by LEPs who Speak English Less Than Very Well in the State of Hawaii -- 2009-2013

by total number of speakers of non-English language

Note: Languages shown in red are new to top 25 listing.
(based on category of people speaking English less than very well)

Rank	Language	Speak English less than "Very Well"	% speak English less than "Very Well"
1	Ilocano	33,085	61.3
2	Tagalog	30,147	51.7
3	Japanese	21,262	46.6
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16	Thai	1,045	54.4
17	German	825	17.9
18	French	715	16.2
19	Indonesian	570	64.8
20	Formosan	480	77.4
21	Ponapean	445	62.2
22	Russian	347	29.7
23	Portuguese	320	16.7
24	Kusaean	270	52.4
25	French Creole	256	73.6

*Includes Cantonese and Mandarin.

Source: Research and Economic Analysis Division, DBEDT.

Note: This ranking is based on all languages other than English spoken at home for the State of Hawaii. - A data pool that includes those who are not LEP. However, the ranking here reflects those from that pool that "speak English less than "Very Well".

Background: Hawaii's Language Access Law

State agencies and covered entities are required to:

- ▶ Assess the need for providing language services and take “**reasonable steps**” to ensure “**meaningful**” access to state services, programs and activities.
- ▶ Provide oral language services in a “**timely**” and “**competent**” manner
- ▶ Provide written translations of “**vital**” documents
- ▶ Establish a “**language access plan**”

*A “**covered entity**” (revised) is defined as “a person organization receiving state financial assistance, including grants, purchase-of-service contracts, or any other arrangements by which the State provides or otherwise makes available assistance in the form of funds to the person or organization for the purpose of rendering services to the public. *(Some exemptions.)*”

MEANINGFUL LANGUAGE ACCESS

HRS sec. 321C-3 provides:

“Each state agency and all covered entities **shall** take reasonable steps to ensure **meaningful access** to services, programs, and activities by limited English proficient persons[.]” in the form of oral interpretation or written translations.

LANGUAGE ACCESS PLAN

HRS sec. 321C-4(a) provides:

“Each state agency and covered entity shall establish a **plan for language access**.”

Each state agency is required to file its plan with the Office of Language Access every two years.

- Are you familiar with DLIR’s language access plan?
What does it say you do if you encounter a LEP client?

VITAL DOCUMENTS

HRS sec. 321C-2 defines “**vital documents**” as “printed documents that provide important information necessary to access or participate in services, programs, and activities of a state agency or covered entity, including but not limited to applications, outreach materials, and written notices of rights, denials, losses, or decreases in benefits or services.”

HRS sec. 321C-3(c) requires that each state agency and covered entity “shall **provide written translations of vital documents**” to LEP persons who seek access to their services – in accordance with certain statutory formulas and the four-factor analysis.

DATA & EVALUATION

OLA requires agencies to report to it the number and nature of its LEP encounters, and the types of language services it provides. This process of collecting **DATA & EVALUATION** helps the agency in developing an adequate and appropriate **language access plan** and to engage in an 'informed' [4-factor] analysis.

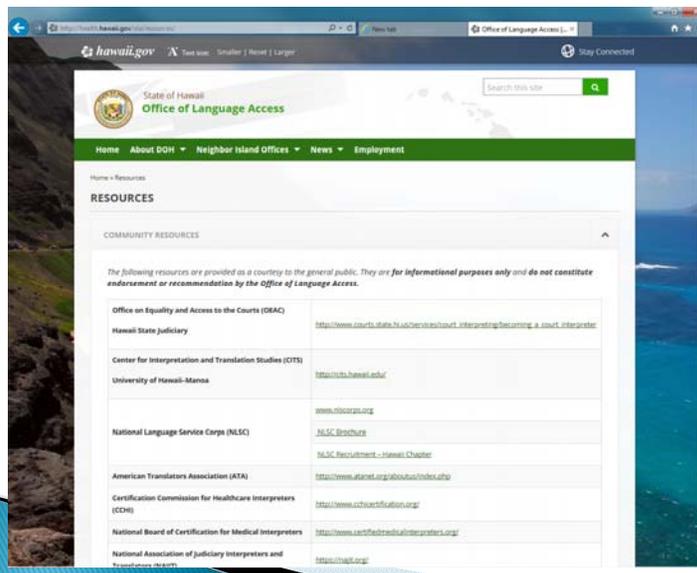
Office of Language Access

- ▶ Established in 2007.
- ▶ Provides **oversight and central coordination**.
- ▶ Provides **technical assistance**.
- ▶ Reviews and **monitors** language access plans for compliance.
- ▶ Receives, investigates and resolves **complaints**.
- ▶ Provides **multilingual signage**.
- ▶ Operates a language access resource center – including a publicly available roster of language service providers.
- ▶ Assisted by a 17-member language access advisory council.

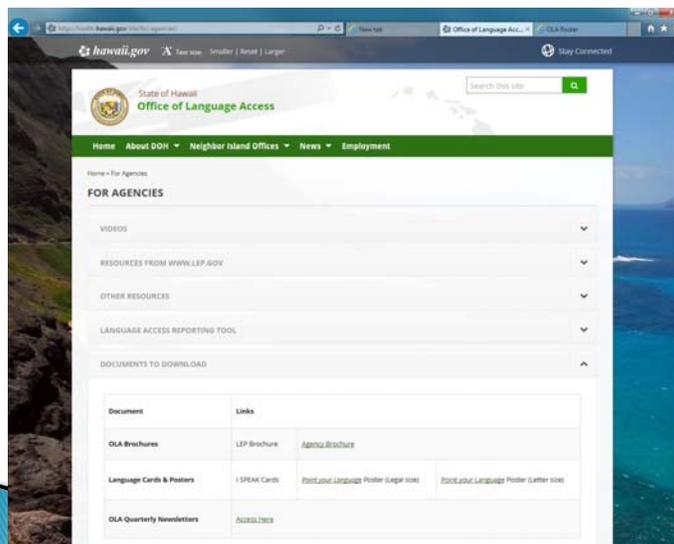
Office of Language Access Website: <http://health.hawaii.gov/ola/>



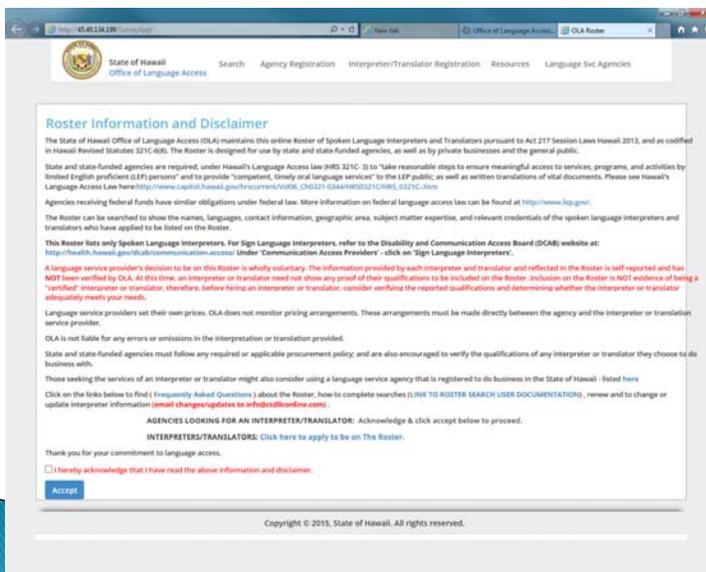
Office of Language Access Website: Resources– <http://health.hawaii.gov/ola/for-agencies/>



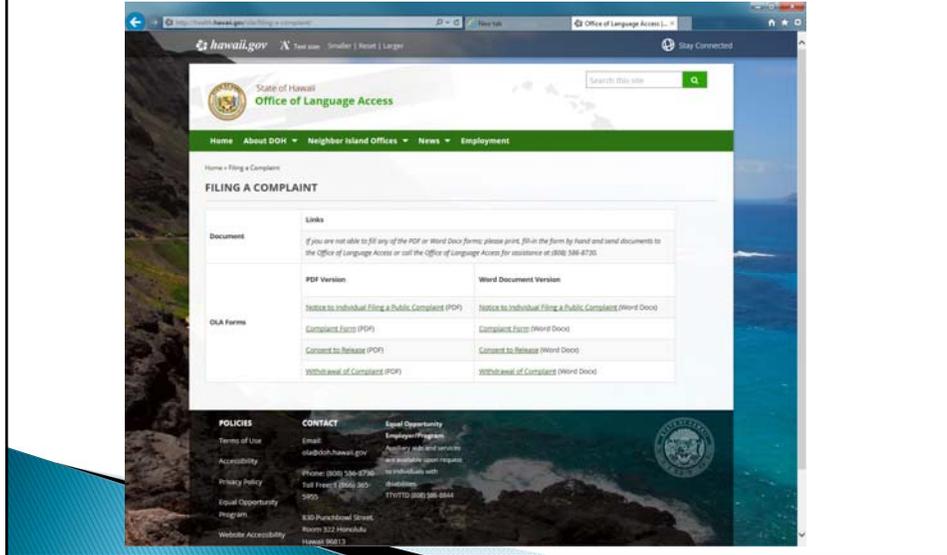
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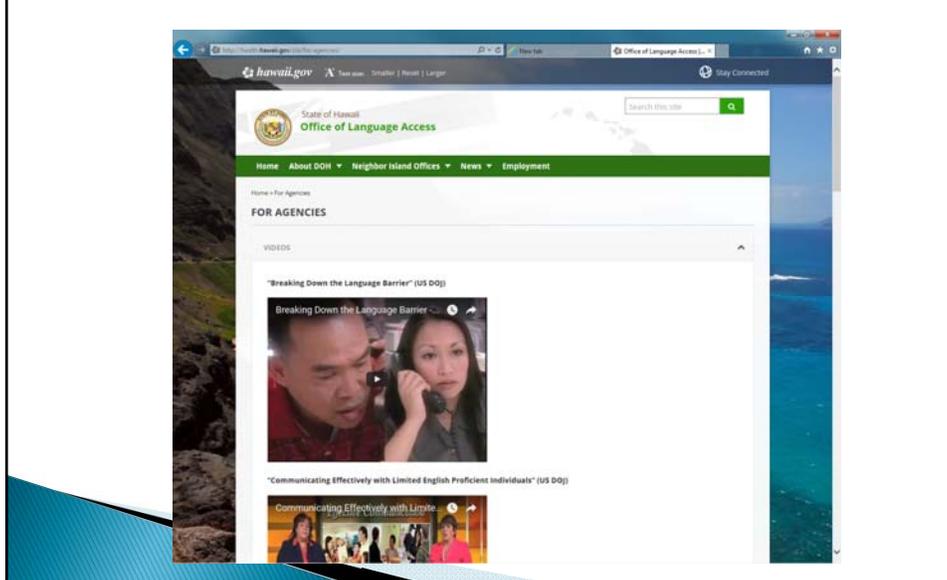
Office of Language Access Website:
 Roster–
<http://45.40.134.199/SurveyApp/>



Office of Language Access Website:
Complaint Process
health.hawaii.gov/ola/filing-a-complaint/



Office of Language Access Website:
Instructional Videos –
<http://health.hawaii.gov/ola/for-agencies/>



What OLA Does NOT do:

- ▶ OLA does **not** have interpreters or translators on staff.
- ▶ OLA does **not** handle the procurement of interpreters or translations for your office. (Only for it's own office's services.)
- ▶ OLA's purview extends to *all* state and state-funded agencies, not just the Department of Health, to which it is now *administratively attached*.
- ▶ OLA does not enforce Title VI - the federal government does.

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