
A BILL FOR AN ACT

RELATING TO LANGUAGE ACCESS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 371, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART

5 **§371-A Purpose.** Most individuals living in Hawaii read,
6 write, speak and understand English. There are many
7 individuals, however, who are limited English proficient.
8 Language for limited English proficient persons can be a barrier
9 to accessing important benefits or services, understanding and
10 exercising important rights, complying with applicable
11 responsibilities, or understanding other information provided by
12 state funded programs and activities.

13 The purpose of this part is to affirmatively address, on
14 the basis of national origin, the language access needs of
15 limited English proficient persons. In providing the delivery
16 of language accessible services, it is the intent of the
17 Legislature that those services be guided by Executive Order

1 13166 and succeeding provisions of federal law, regulation, or
2 guidance.

3 **§371-B Definitions.** Whenever used in this part, unless a
4 different meaning clearly appears from the context:

5 "Access or participate" means to be informed of,
6 participate in, and benefit from the services, programs, and
7 activities offered by the State and covered entities.

8 "State" means the executive, legislative, and judicial
9 branches of government including departments, offices,
10 commissions, boards or other entities within the executive,
11 legislative, or judicial branches.

12 "Covered Entity" means organizations receiving state
13 financial assistance including grants, purchase-of-service
14 contracts, or any other arrangement by which the State provides
15 or otherwise makes available assistance in the form of funds to
16 an entity for the purpose of rendering services on behalf of the
17 State. It does not include procurement contracts, state
18 insurance or guaranty contracts, licenses, tax credits, or loan
19 guarantees to private businesses of general concern that do not
20 render services on behalf of the State.



1 "Language" means human speech or the expression of ideas by
2 written characters and includes systems used by nations, people,
3 or other distinct communities.

4 "Limited English proficient" means individuals who, on
5 account of national origin, do not speak English as their
6 primary language and who identify themselves as having
7 a limited ability to read, write, speak, or understand the
8 English language.

9 "Oral language services" means the free provision of oral
10 information necessary to enable limited English proficient
11 persons to access or participate in services, programs, or
12 activities.

13 "Vital documents" means information that is important in
14 order to participate in services, programs and activities and
15 includes, but is not limited to, applications, outreach
16 materials, and written notices of rights, denials, losses, or
17 decreases in benefits or services.

18 **§371-C Oral and written language services.** (a) The State
19 and all covered entities shall take reasonable steps to ensure
20 meaningful access to their services, programs and activities by
21 limited English proficient persons, which will be determined by
22 a totality of circumstances including the following factors:



1 (1) The number or proportion of limited English proficient
2 persons served or encountered in the eligible service
3 population;

4 (2) The frequency with which limited English proficient
5 persons come in contact with the services, programs or
6 activities;

7 (3) The nature and importance of the service, program or
8 activity; and

9 (4) The resources available to the State or covered entity
10 and the costs.

11 (b) Subject to subsection (a), the State and covered
12 entities shall provide competent, timely oral language services
13 to limited English proficient persons who seek to access
14 services, programs, or activities.

15 (c) Subject to subsection (a), the State and covered
16 entities shall provide translations of vital documents to
17 limited English proficient persons who seek to access services,
18 programs, or activities, as follows:

19 (1) Written translations of vital documents for each
20 eligible language group that constitutes five percent
21 or 1,000, whichever is less, of the population of



1 persons eligible to be served or likely to be affected
2 or encountered; or

3 (2) If there are fewer than 50 persons in a language group
4 that reaches the five percent threshold in paragraph
5 (1), written notice in the primary language to the
6 limited English proficient language group of the right
7 to receive competent oral interpretation of those
8 written materials, free of cost.

9 (d) To the extent that the State requires additional
10 personnel to provide language services based on the
11 determination set forth in this section, the State shall hire
12 qualified personnel who are bilingual to fill existing, budgeted
13 vacant public contact positions.

14 **§371-D Additional obligations.** (a) The State and all
15 covered entities shall establish a plan for language access.

16 (b) Each state entity's plan for language access shall be
17 established in consultation with the language access director
18 and the state entity's coordinator for language access. Each
19 state entity shall file its initial language access plan with
20 the language access director no later than July 1, 2007 and
21 every two years thereafter.



1 (c) Each state entity shall designate a language access
2 coordinator who shall establish and implement the plan for
3 language access in consultation with the language access
4 director and the language access advisory council.

5 **§371-E Public meetings and public hearings.** (a) State
6 entities to which this part applies shall not be required to
7 translate meeting notices, agendas, or minutes.

8 (b) Subject to section 371-C, oral interpretation for
9 public meetings or public hearings held by the legislature shall
10 be provided if requested at least forty-eight hours in advance
11 of the meeting or hearing. Where the notice of any public
12 meeting or public hearing is posted less than forty-eight hours
13 in advance of the meeting or hearing, oral interpretation shall
14 be provided if requested at least twenty-four hours in advance
15 of the meeting or hearing.

16 **§371-F Language access director; duties.** (a) There shall
17 be within the department of labor and industrial relations a
18 language access director to coordinate and supervise activities
19 under this part. The language access director shall:

20 (1) Provide oversight, central coordination, and technical
21 assistance to state entities in their implementation



- 1 of language access requirements under this part or
2 under any other law, regulation, or guidance;
- 3 (2) Provide technical assistance to covered entities in
4 their implementation of the provisions of this part;
- 5 (3) Review and monitor each state entity's language access
6 plan for compliance with this part;
- 7 (4) Where reasonable access is not provided, endeavor to
8 eliminate the barrier using informal methods such as
9 conference, conciliation, mediation, or persuasion.
10 Where the language access barrier cannot be eliminated
11 by informal methods, the language access director
12 shall submit a written report with the language access
13 director's opinion and recommendation to the state
14 entity or the covered entity. The language access
15 director may request the state entity or the covered
16 entity to notify the language access director, within
17 a specified time, of any action taken on the language
18 access director's recommendation;
- 19 (5) Consult with language access coordinators, the
20 language access advisory council, and department
21 directors or their equivalent;



1 (6) Subject to section 371-C, create, distribute to the
2 state, and make available to covered entities
3 multilingual signage in the more frequently
4 encountered languages in the state, and other
5 languages as needed, informing individuals of their
6 right to free language assistance services and
7 inviting them to identify themselves as persons
8 needing services; and

9 (7) Adopt rules pursuant to chapter 91 to address the
10 language needs of limited English proficient persons.

11 **§371-G Language access advisory council.** (a) There is
12 established the language access advisory council within the
13 department of labor and industrial relations for administrative
14 purposes. The council shall consist of the following members to
15 be appointed by the governor:

- 16 (1) One representative from the state government;
- 17 (2) One representative from a covered entity;
- 18 (3) One bilingual case management worker, or an individual
19 who is or has been employed by a state-funded
20 immigrant service agency or program;

- 1 (4) One representative of an advocacy organization that
- 2 provides services to limited English proficient
- 3 persons;
- 4 (5) One member from the limited English proficient
- 5 population who has an interest in the provision of
- 6 language services;
- 7 (6) One representative of the University of Hawaii
- 8 department of language and linguistics who provides
- 9 professional training in interpretation and
- 10 translation;
- 11 (7) One representative of a Hawaiian language advocacy
- 12 organization;
- 13 (8) One representative of a professional interpreter's
- 14 organization;
- 15 (9) One representative of a bilingual referral service or
- 16 program;
- 17 (10) The executive director of the Hawaii civil rights
- 18 commission or authorized representative; and
- 19 (11) The language access director, as ex-officio member.
- 20 (b) Members shall be appointed in accordance with section
- 21 26-34. The terms of the members shall be for four years;
- 22 provided that the governor may reduce the terms of those

1 initially appointed so as to provide, as nearly as can be, for
2 the expiration of an equal number of terms at intervals of one
3 year. The council shall select one of its members to serve as
4 chair. No member of the council shall receive any compensation
5 for council services, but shall be allowed necessary expenses
6 for travel, board, and lodging incurred in the performance of
7 council duties.

8 (c) The language access advisory council shall serve in an
9 advisory capacity to the language access director, providing
10 community input on:

- 11 (1) Implementation and compliance with this part;
- 12 (2) The quality of oral and written language services
13 provided under this chapter; and
- 14 (3) The adequacy of a state entity or covered entity's
15 dissemination and training of its employees likely to
16 have contact with limited or no-English proficient
17 persons, its policies and procedures for language
18 services, competency in working effectively with
19 in-person and telephone interpreters, and
20 understanding of the dynamics of interpretation
21 between clients, providers, and interpreters."



1 SECTION 2. Sections 1 to 18 of chapter 371, Hawaii Revised
2 Statutes, shall be designated as Part I.

3 SECTION 3. The language access director shall submit a
4 written report annually to the governor and to the legislature
5 no later than twenty days prior to the convening of each regular
6 session, beginning with the regular session of 2007, detailing
7 compliance, complaints and resolutions, recommendations to
8 enhance compliance, and statutory or administrative changes to
9 further the purposes of this Act.

10 SECTION 4. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$, or so
12 much thereof as may be necessary for fiscal year 2006-2007, to
13 staff and maintain positions at the department of labor and
14 industrial relations for the office of the language access
15 director and language access advisory council.

16 All sums appropriated shall be expended by the department
17 of labor and industrial relations for the purposes of this Act.

18 SECTION 5. This Act shall take effect upon its approval;
19 provided that section 4 shall take effect on July 1, 2006.



Report Title:

Language Access

Description:

Provides for effective and timely communication between all levels of government and individuals who are precluded from using public services due to language-proficiency barriers.
(SD1)

