



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 state government including departments, offices,  
10 commissions, boards, or other agencies within the executive,  
11 legislative, or judicial branches.

12 "Covered entity" means an organization 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 the covered entity for the purpose of rendering services on  
17 behalf of the State. It does not include procurement contracts,  
18 state insurance or guaranty contracts, licenses, tax credits, or  
19 loan guarantees to private businesses of general concern that do  
20 not 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":

- 14 (1) Means printed documents that provide relevant  
15 information necessary to participate in services,  
16 programs and activities; and
- 17 (2) Includes, but is not limited to, applications,  
18 outreach materials, and written notices of rights,  
19 denials, losses, or decreases in benefits or services.

20 **§371-C Oral and written language services.** (a) The State  
21 and all covered entities shall take reasonable steps to ensure  
22 meaningful access to services, programs, and activities



1 available to limited English proficient persons, which will be  
2 determined by a totality of circumstances including the  
3 following factors:

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

7 (2) The frequency with which limited English proficient  
8 persons come in contact with the services, programs,  
9 or activities;

10 (3) The nature and importance of the services, programs,  
11 or activities; and

12 (4) The resources available to the State or covered entity  
13 and the costs.

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

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



1 (1) Written translations of vital documents for each  
2 eligible language group that constitutes five per cent  
3 or one thousand, whichever is less, of the population  
4 of persons eligible to be served or likely to be  
5 affected or encountered; or

6 (2) If there are fewer than fifty persons in a language  
7 group that reaches the five per cent threshold in  
8 paragraph (1), written notice in the primary language  
9 to the limited English proficient language group of  
10 the right to receive competent oral interpretation of  
11 those written materials, free of cost.

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

17 **§371-D Additional obligations.** (a) The State and all  
18 covered entities shall establish a plan for language access.

19 (b) Each state agency's plan for language access shall be  
20 established in consultation with the language access director  
21 and the state agency's coordinator for language access. Each  
22 state agency shall file its initial language access plan with



1 the language access director no later than July 1, 2007 and  
2 every two years thereafter.

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

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

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

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



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



- 1 (5) Consult with language access coordinators, the
- 2 language access advisory council, and department
- 3 directors or their equivalent;
- 4 (6) Subject to section 371-C, create, distribute to the
- 5 State, and make available to covered entities
- 6 multilingual signage in the more frequently
- 7 encountered languages in the State, and other
- 8 languages as needed, informing individuals of their
- 9 right to free oral language services and inviting them
- 10 to identify themselves as persons needing services;
- 11 and

- 12 (7) Adopt rules pursuant to chapter 91 to address the
- 13 language needs of limited English proficient persons.

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

- 19 (1) One representative from the state government;
- 20 (2) One representative from a covered entity;



- 1           (3) One bilingual case management worker, or an individual
- 2           who is or has been employed by a state-funded
- 3           immigrant service agency or program;
- 4           (4) One representative of an advocacy organization that
- 5           provides services to limited English proficient
- 6           persons;
- 7           (5) One member from the limited English proficient
- 8           population who has an interest in the provision of
- 9           oral language services;
- 10          (6) One representative of the University of Hawaii
- 11          department of language and linguistics who provides
- 12          professional training in interpretation and
- 13          translation;
- 14          (7) One representative of a Hawaiian language advocacy
- 15          organization;
- 16          (8) One representative of a professional interpreter's
- 17          organization;
- 18          (9) One representative of a bilingual referral service or
- 19          program;
- 20          (10) The executive director of the Hawaii civil rights
- 21          commission or authorized representative; and
- 22          (11) The language access director, as ex-officio member.



1 (b) Members shall be appointed in accordance with section  
2 26-34. The terms of the members shall be for four years;  
3 provided that the governor may reduce the terms of those  
4 initially appointed so as to provide, as nearly as can be, for  
5 the expiration of an equal number of terms at intervals of one  
6 year. The council shall select one of its members to serve as  
7 chair. No member of the council shall receive any compensation  
8 for council services, but shall be allowed necessary expenses  
9 for travel, board, and lodging incurred in the performance of  
10 council duties.

11 (c) The language access advisory council shall serve in an  
12 advisory capacity to the language access director, providing  
13 input on:

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



1           understanding of the dynamics of interpretation  
2           between clients, providers, and interpreters."

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

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

12           SECTION 4. There is appropriated out of the general  
13 revenues of the State of Hawaii the sum of \$1, or so much  
14 thereof as may be necessary for fiscal year 2006-2007, to staff  
15 and maintain positions at the department of labor and industrial  
16 relations for the office of the language access director and  
17 language access advisory council.

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

20           SECTION 5. This Act shall take effect upon its approval;  
21 provided that section 4 shall take effect on July 1, 2050.



**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.  
(SD2)

