
A BILL FOR AN ACT

RELATING TO LANGUAGE ACCESS.

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

1 SECTION 1. Chapter 346, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . LANGUAGE ACCESS**

5 **§346-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 account of national origin, the language access needs of limited
15 English proficient persons. In providing the delivery of
16 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 **§346-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 "Covered entity" means a person or organization receiving
9 state financial assistance, including grants, purchase-of-
10 service contracts, or any other arrangement by which the State
11 provides or otherwise makes available assistance in the form of
12 funds to the person or organization for the purpose of rendering
13 services to the public. It shall not include procurement
14 contracts, state insurance or guaranty contracts, licenses, tax
15 credits, or loan guarantees to private businesses of general
16 concern that do not render services on behalf of the State.

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

20 "Limited English proficient" means individuals who, on
21 account of national origin, do not speak English as their
22 primary language and who identify themselves as having a limited



1 ability to read, write, speak, or understand the English
2 language.

3 "Oral language services" means the free provision of oral
4 information necessary to enable limited English proficient
5 persons to access or participate in services, programs, or
6 activities of a state agency or covered entity.

7 "Purchase-of-service contract" means any and all types of
8 formal written agreements, regardless of what they may be
9 called, between the State and any person, to purchase or
10 otherwise acquire any service for the purpose of rendering
11 services to the public.

12 "State" or "state agency" means the executive, legislative,
13 or judicial branches of state government, including departments,
14 offices, commissions, boards, or other agencies within the
15 executive, legislative, or judicial branches.

16 "Vital documents" means printed documents that provide
17 important information necessary to access or participate in
18 services, programs, and activities of a state agency or covered
19 entity, including but not limited to applications, outreach
20 materials, and written notices of rights, denials, losses, or
21 decreases in benefits or services.



1 "Written language services" means the free provision of
2 written information necessary to enable limited English
3 proficient persons to access or participate in services,
4 programs, or activities of a state agency or covered entity.

5 **§346-C Oral and written language services.** (a) Each
6 state agency and all covered entities shall take reasonable
7 steps to ensure meaningful access to services, programs, and
8 activities by limited English proficient persons, which will be
9 determined by a totality of circumstances, including the
10 following factors:

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

14 (2) The frequency with which limited English proficient
15 persons come in contact with the services, programs,
16 or activities;

17 (3) The nature and importance of the services, programs,
18 or activities; and

19 (4) The resources available to the State or covered entity
20 and the costs.

21 (b) Subject to subsection (a), each state agency and
22 covered entity shall provide competent, timely oral language



1 services to limited English proficient persons who seek to
2 access services, programs, or activities.

3 (c) Subject to subsection (a), each state agency and
4 covered entity shall provide written translations of vital
5 documents to limited English proficient persons who seek to
6 access services, programs, or activities, as follows:

7 (1) Written translations of vital documents for each
8 eligible limited English proficient group that
9 constitutes five per cent or one thousand, whichever
10 is less, of the population of persons eligible to be
11 served or likely to be affected or encountered; or

12 (2) If there are fewer than fifty persons in a limited
13 English proficient group that reaches the five per
14 cent threshold in paragraph (1), written notice in the
15 primary language to the limited English proficient
16 language group of the right to receive competent oral
17 interpretation of those written materials, free of
18 cost.

19 (d) To the extent that the State requires additional
20 personnel to provide language services based on the
21 determination set forth in this section, the State shall hire



1 qualified personnel who are bilingual to fill existing, budgeted
2 vacant public contact positions.

3 **§346-D Additional obligations.** (a) Each state agency
4 and covered entity shall establish a plan for language access.

5 (b) Each state agency's plan for language access shall be
6 established in consultation with the executive director of the
7 office of language access and the state agency's coordinator for
8 language access. State agencies receiving federal financial
9 assistance shall file an initial language access plan with the
10 executive director of the office of language access no later
11 than July 1, 2007, and every two years thereafter. All other
12 state agencies shall file a language access plan with the
13 executive director of the office of language access no later
14 than July 1, 2008, and every two years thereafter.

15 (c) Each state agency shall designate a language access
16 coordinator who shall establish and implement the plan for
17 language access in consultation with the executive director of
18 the office of language access and the language access advisory
19 council.

20 **§346-E Public meetings and public hearings.** (a) State
21 agencies to which this part applies shall not be required to
22 translate meeting notices, agendas, or minutes.



1 (b) Subject to section 346-C, oral language services for
2 public meetings or public hearings held by the legislature shall
3 be provided if requested at least forty-eight hours in advance
4 of the meeting or hearing. Where the notice of any public
5 meeting or public hearing is posted less than forty-eight hours
6 in advance of the meeting or hearing, oral language services
7 shall be provided if requested at least twenty-four hours in
8 advance of the meeting or hearing.

9 **§346-F Executive director of the office of language**
10 **access; duties.** There is established within the department of
11 human services, for administrative purposes only, an office of
12 language access. The head of the office shall be known as the
13 executive director of the office of language access, hereinafter
14 referred to as executive director. The executive director shall
15 be appointed by the governor without regard to chapter 76. The
16 executive director shall:

- 17 (1) Provide oversight, central coordination, and technical
18 assistance to state agencies in their implementation
19 of language access requirements under this part or
20 under any other law, regulation, or guidance;
- 21 (2) Provide technical assistance to covered entities in
22 their implementation of this part;



- 1 (3) Review and monitor each state agency's language access
2 plan for compliance with this part;
- 3 (4) Where reasonable access is not provided, endeavor to
4 eliminate the barrier using informal methods such as
5 conference, conciliation, mediation, or persuasion.
6 Where the language access barrier cannot be eliminated
7 by informal methods, the executive director shall
8 submit a written report with the executive director's
9 opinion and recommendation to the state agency or the
10 covered entity. The executive director may request
11 the state agency or the covered entity to notify the
12 executive director, within a specified time, of any
13 action taken on the executive director's
14 recommendation;
- 15 (5) Consult with language access coordinators, the
16 language access advisory council, and department
17 directors or their equivalent;
- 18 (6) Subject to section 346-C, create, distribute to the
19 State, and make available to covered entities
20 multilingual signage in the more frequently
21 encountered languages in the State, and other
22 languages as needed, informing individuals of their



1 right to free oral language services and inviting them
2 to identify themselves as persons needing services;
3 and

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

6 **§346-G Language access advisory council.** (a) There is
7 established the language access advisory council within the
8 department of human services for administrative purposes. The
9 council shall consist of the following members to be appointed
10 by the governor:

- 11 (1) One representative from the state government;
- 12 (2) One representative from a covered entity;
- 13 (3) One bilingual case management worker, or an individual
14 who is or has been employed by a state-funded
15 immigrant service agency or program;
- 16 (4) One representative of an advocacy organization that
17 provides services to limited English proficient
18 persons;
- 19 (5) One member from the limited English proficient
20 population who has an interest in the provision of
21 oral language services;



- 1 (6) One representative of the University of Hawaii
- 2 department of language and linguistics who provides
- 3 professional training in interpretation and
- 4 translation;
- 5 (7) One representative of a Hawaiian language advocacy
- 6 organization;
- 7 (8) One representative of a professional interpreter's
- 8 organization;
- 9 (9) One representative of a bilingual referral service or
- 10 program;
- 11 (10) One representative residing in the county of Hawaii
- 12 who has an interest in language access;
- 13 (11) One representative residing in the county of Kauai who
- 14 has an interest in language access;
- 15 (12) One representative residing in the county of Maui who
- 16 has an interest in language access;
- 17 (13) One representative residing in the city and county of
- 18 Honolulu who has an interest in language access;
- 19 (14) The executive director of the Hawaii civil rights
- 20 commission or authorized representative, as ex-officio
- 21 member;



1 (15) One representative from the disability and
2 communication access board, as an ex-officio member;
3 and

4 (16) The executive director, as ex-officio member.

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

15 (c) The language access advisory council shall serve in an
16 advisory capacity to the executive director, providing input on:

- 17 (1) Implementation and compliance with this part;
- 18 (2) The quality of oral and written language services
19 provided under this part; and
- 20 (3) The adequacy of a state agency or covered entity's
21 dissemination and training of its employees likely to
22 have contact with limited or no-English proficient



1 persons, its policies and procedures for language
2 services, its competency in working effectively with
3 in-person and telephone interpreters, and its
4 understanding of the dynamics of interpretation
5 between clients, providers, and interpreters."

6 SECTION 2. Chapter 371, part II, Hawaii Revised Statutes,
7 is repealed.

8 SECTION 3. In codifying the new sections added by section
9 1 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

12 SECTION 4. All rights, powers, functions, and duties of
13 the office of language access are transferred to the department
14 of human services.

15 All officers and employees whose functions are transferred
16 by this Act shall be transferred with their functions and shall
17 continue to perform their regular duties upon their transfer,
18 subject to the state personnel laws and this Act.

19 No officer or employee of the State having tenure shall
20 suffer any loss of salary, seniority, prior service credit,
21 vacation, sick leave, or other employee benefit or privilege as
22 a consequence of this Act, and such officer or employee may be



1 transferred or appointed to a civil service position without the
2 necessity of examination; provided that the officer or employee
3 possesses the minimum qualifications for the position to which
4 transferred or appointed; and provided that subsequent changes
5 in status may be made pursuant to applicable civil service and
6 compensation laws.

7 An officer or employee of the State who does not have
8 tenure and who may be transferred or appointed to a civil
9 service position as a consequence of this Act shall become a
10 civil service employee without the loss of salary, seniority,
11 prior service credit, vacation, sick leave, or other employee
12 benefits or privileges and without the necessity of examination;
13 provided that such officer or employee possesses the minimum
14 qualifications for the position to which transferred or
15 appointed.

16 If an office or position held by an officer or employee
17 having tenure is abolished, the officer or employee shall not
18 thereby be separated from public employment, but shall remain in
19 the employment of the State with the same pay and classification
20 and shall be transferred to some other office or position for
21 which the officer or employee is eligible under the personnel



1 laws of the State as determined by the head of the department or
2 the governor.

3 SECTION 5. All appropriations, records, equipment,
4 machines, files, supplies, contracts, books, papers, documents,
5 maps, and other personal property heretofore made, used,
6 acquired, or held by the department of labor and industrial
7 relations relating to the functions transferred to the
8 department of human services shall be transferred with the
9 functions to which they relate.

10 SECTION 6. All rules, policies, procedures, guidelines,
11 and other material adopted or developed by the department of
12 labor and industrial relations for the office of language access
13 shall remain in full force and effect until amended or repealed
14 by the department of human services pursuant to chapter 91,
15 Hawaii Revised Statutes. In the interim, every reference to the
16 department of labor and industrial relations in those rules,
17 policies, procedures, guidelines, and other material is amended
18 to refer to the department of human services, as appropriate.

19 SECTION 7. This Act shall take effect on July 1, 2013.
20

[Handwritten signatures and text]
INTRODUCED BY: *[Signature]*
[Signature] Lida Cabonik *[Signature]*
[Signature] Tom Brown *[Signature]*
Humphrey JAN 20 2012

Report Title:

Office of Language Access; Department of Human Services

Description:

Transfers authority over the Office of Language Access from the Department of Labor and Industrial Relations to the Department of Human Services. Effective July 1, 2013.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

