

STATE OF HAWAII
DEPARTMENT OF HEALTH
OFFICE OF LANGUAGE ACCESS
830 PUNCHBOWL STREET, ROOM 322
HONOLULU, HAWAII 96813

March 30, 2018

To: The Honorable Senator Donovan M. Dela Cruz, Chair
The Honorable Senator Gilbert S.C. Keith-Agaran, Vice Chair
Members of Senate Committee on Ways and Means

From: Aphirak Bamrungruan, Executive Director

Subject: **HB 1943, HD1, SD1** – RELATING TO LANGUAGE ACCESS

Hearing: Wednesday, April 4, 2018, 10:30 AM
Conference Room 211, State Capitol

Agency's Position: The Office of Language Access (OLA) supports the intent of the measure, provided that the measure's passage does not replace or adversely impact priorities in the Governor's Executive Budget Request.

Purpose and Justification: The purpose of the measure is to appropriate funds for the establishment of two full-time equivalent (2.00 FTE) permanent program specialist positions within the Office of Language Access to assist state agencies and state-funded agencies in implementing the requirements of Hawaii's language access law.

Hawaii is one of the most culturally diverse states and has one of the highest proportions of non-English speakers in the nation. According to the U.S. Census Bureau, 2012-2016 American Community Survey (ACS) 5-year estimates, the total population in the state of Hawaii was 1,413,673. An estimate of 25.7% or 339,539 of Hawaii residents, 5 years and older, speak a language other than English at home. Of those, 166,949 or 12.6% indicated that they speak English "less than very well."

English proficiency (or lack of) has strong impacts on people's economic and social activities, health literacy and wellness, access to education, employment, and important public assistance, benefits, programs and services. In 2006, the Hawaii State Legislature passed the Hawaii Language Access Law (Codified under Hawaii Revised Statutes 321C) and OLA was established in 2007 to address the language access needs of limited English Proficient (LEP) persons and ensure their meaningful access to services, programs, and activities offered by the

executive, legislative, and judicial branches of state government, including departments, offices, commissions, boards, or other state-funded agencies (including the counties). In 2013, Act 217, Session Laws of Hawaii 2013, gave OLA further responsibilities to establish and operate a Language Access Resource Center.

Under the Hawaii Language Access Law, OLA's task is to provide highly specialized technical assistance and to coordinate resources to reduce the burden of implementing language access obligations. OLA is charged with providing oversight, central coordination, and technical assistance to all state and state-funded agencies in their implementation of language access compliance – a civil right under both state and federal law.

OLA began with six positions but lost five positions in 2009 due to the Reduction-In-Force. In 2012, OLA received enough funds to restore two of the five lost positions and has been operating with only three authorized full-time equivalent positions until the present time. The lack of personnel has limited OLA's ability to fully perform its mandated functions. Additional staffing will enable OLA to better assist state agencies in complying with language access laws and performing its statutorily mandated compliance and technical assistance functions.

OLA appreciates this committee for its commitment to language access and for the opportunity to provide this testimony.



The Judiciary, State of Hawai'i

Testimony to the Senate Committee on Ways and Means

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Wednesday, April 4, 2018, 10:30 AM
State Capitol, Conference Room 211

By
Debi Tulang-DeSilva
Program Director
Office of Equality and Access to the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 1943, H.D. 1, S.D. 1, Relating to Language Access.

Purpose: Appropriates funds for the establishment of two full-time equivalent (2.00 FTE) permanent program specialist positions within the office of language access to assist state agencies and state-funded agencies in implementing the requirements of Hawaii's language access law. Effective 7/1/3000 (SD1).

Judiciary's Position:

The Judiciary supports House Bill No. 1943, H.D. 1, S.D. 1.

This measure appropriates funds for the establishment of two full-time permanent positions within the Office of Language Access (OLA) to assist state agencies and state-funded agencies in implementing the requirements of Hawai'i's language access law. The Judiciary recognizes that many people who require or receive Judiciary services may not be able to meaningfully participate due to limited English proficiency (LEP). Thus, the Judiciary has prioritized its resources over the years to enhance the language access services it provides for LEP court customers. Through its Office on Equality and Access to the Courts, the Judiciary is committed to providing meaningful access to court processes and services to persons with LEP. Since its establishment, the OLA has been extremely supportive of the Judiciary's efforts to promote language access and has been a valuable collaborative partner on many language access

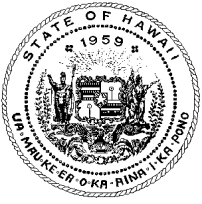


House Bill No. 1943, H.D. 1, S.D. 1, Relating to Language Access
Senate Committee on Ways and Means
Wednesday, April 4, 2018, 10:30 AM
Page 2

projects. In order to sustain the assistance and support that the OLA provides the Judiciary and numerous other state agencies, the Judiciary supports the passage of House Bill No. 1943, H.D.1, S.D.1.

We appreciate the Legislature's action to support efforts that promote access to justice and respectfully request your support of House Bill No. 1943, H.D. 1, S.D. 1.

Thank you for the opportunity to provide testimony on this measure.



HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

April 4, 2018
Rm. 211, 10:30 a.m.

To: The Honorable Donovan M. Dela Cruz, Chair
Members of the Senate Committee on Ways and Means

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

H.B. No. 1943, H.D. 1, S.D.1

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5. The HCRC is also an ex-officio member of the Language Access Advisory Council for the Office of Language Access (OLA).

The HCRC supports H.B. No. 1943, H.D.1, S.D.1, which provides for establishment of two permanent full-time positions in OLA, with an appropriation to fund those new positions. The HCRC supports this measure, provided that its passage does not impact the priorities detailed in the Governor’s Executive Budget.

Language is a characteristic of national origin and ancestry. Denial of access to federal and state-funded services for LEP individuals is unlawful national origin / ancestry discrimination, under Title VI of the Civil Rights Act of 1964 and H.R.S. Chapter 321C.

OLA is responsible for oversight, central coordination, and technical assistance to state agencies in implementation of language access requirements. To date, OLA’s primary work has been in lending technical assistance to covered entities in developing language access plans required by law, and planning and organizing annual conferences on language access. In this work, OLA’s capacity has been severely

limited by under-staffing.

H.B. No. 1943, H.D. 1, S.D.1, expands OLA's capacity by establishing two new positions in OLA, with an appropriation. The HCRC supports this measure, provided that its passage does not impact the priorities detailed in the Governor's Executive Budget.

HB-1943-SD-1

Submitted on: 4/2/2018 10:42:55 AM

Testimony for WAM on 4/4/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Serafin Colmenares	Testifying for State Health Planning and Development Agency	Support	No

Comments:

In behalf of the State Health Planning and Development Agency, I am writing in support of HB1943. The Office of Language Access needs additional staff to enable it to assist state and state-funded agencies meet the requirements under Hawaii's language access law. I urge the committee to pass this bill.



TESTIMONY SUBMITTED BY: FAYE KENNEDY, CHAIR HF CR

TESTIMONY IN STRONG SUPPORT OF HB1943 hd1,sd1
RELATING TO LANGUAGE ACCESS

The Hawai'i Friends of Civil Rights supports programs and policies that ensure equal access and support diversity and inclusion in the state. HF CR supports HB 1943 hd, sd1 requesting two positions to meet the objectives and mandate of the law that established the state Office of Language Access. HF CR supports OLA's mandate regarding non-discrimination and equal access and equal treatment to government services. Language access is a civil right. Many community members with limited English proficiency face barriers to equal opportunity and access to state services. These barriers to equal opportunity are often related to a person's race, color, ethnicity, or national origin. Limited language access may deny civil rights to many persons in Hawai'i. Although most residents living in Hawai'i read, write, speak, and understand English, a significant percentage in the state are second language learners and have limited English proficiency. To have equal access to state services and full participation in the community, persons who are second language learners and limited English proficiency require language assistance.

HF CR supports HB1943 hd1,sd1 as we believe that language access to state services is a civil right. OLA is an important state agency that needs to meet its mandates relating to equal access and non-discrimination.



TINALAK FILIPINO EDUCATION COUNCIL

TO: Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Members of the Senate Committee on Ways and Means

From: Tinalak Filipino Education Council

DATE: Wednesday, April 4, 2018 (10:30 a.m., Room 211)

RE: Support for HB 1943, HD1, SD1 - Relating to Language Access

The Tinalak Filipino Education Council was established in 2012 to serve as an advisory council to the Dean of the University of Hawai‘i, Manoa College of Education. We are composed of the COE’s tenure track Filipino faculty and doctoral students. Our mission is to recruit and retain Filipino educators and to foster Filipino culture and linguistic diversity in education.

We support HB1943, for the establishment of two full-time equivalent (2.00 FTE) permanent program specialist positions within the Office of Language Access to assist state agencies and state-funded agencies in implementing the requirements of Hawaii's language access law and Title VI of the Civil Rights Act of 1964.

About 1 in 4 of Hawai‘i residents speak a language other than English at home and about 1 in 8 indicated that they speak English “less than very well.” In terms of our Multilingual/English learner (EL) students, the most home languages spoken are Filipino (Tagalog, Ilokano, Pampangan, etc) at 30%. With this statistic, we have a vested interest in providing the necessary language services for our multilingual Filipino families who have limited English proficiency. This would help state agencies like the HIDOE better serve the needs of our families.

Thank you for the opportunity to testify.

TESTIMONY IN SUPPORT OF HB1943 hd1, sd1 RELATING TO LANGUAGE ACCESS
SUBMITTED BY AMY AGBAYANI, CHAIR FILIPINA ADVOCACY NETWORK (FAN)

Chair Dela Cruz, Vice Chair Keith-Agaran and members of the committee.

Filipina Advocacy Network (FAN) strongly supports HB 1943 hd1, sd1 providing two positions for the Office of Language Access. The Hawai'i State Legislature passed legislation establishing the Office of Language Access to ensure access to state-funded services for persons with limited English proficiency. This important agency is under-funded and cannot effectively implement its mandate without additional resources. Language access to state services is a critical government responsibility and a civil right. The Office of Language Access is the state agency that can help other state agencies provide appropriate language assistance that will benefit our community in multiple ways. Non-discrimination, equal access, appreciation of diversity and need for inclusion are the basis for funding OLA.

Obtaining government information and access to state services should be available to all persons in the state. Although not the same, limited English speakers encounter similar problems and need similar programs available to deaf and hard of hearing individuals. Our recent problem with the incorrect missile alert warning highlights the needs of individuals who are unable to read or understand English messages. At this time, there is inadequate communication protocols to warn our multilingual communities of hurricanes and other natural disasters.

“According to the American Community Survey data collected for five years from 2010 to 2014, around one-in-four people aged 5 and older during the period spoke a language other than English at home in Hawaii. Speaking a non-English language at home does not mean that the person cannot speak English. About half of the non-English speakers at home were fluent English speakers describing their English speaking ability as “very well”, while another 30 percent rated their English speaking ability as “well”. However, 19 percent of the non-English speakers in Hawaii, or about 62,000 people, spoke English “not well” or “not at all”. At the household level, 6.3 percent of total households in Hawaii, or about 28,400 households, had no one aged 14 and older who could speak English very well in the household. “

Hawai'i has a significant percentage of people in all counties who are unable or have only a limited ability to read, write, speak or understand English. Without language assistance, these residents face barriers to government information and services and unable to fully participate in the economy and community activities.”

A large percentage of persons in Hawai'i do not speak English or have difficulty using English. For example, 40 percent of persons of Vietnamese ethnicity and 35 percent of persons of Chinese ethnicity have either limited ability or are unable to speak English. Among Filipino ethnic groups, 26 percent of Ilocanos are not fluent in English and 15 percent of Pacific Islanders have limited English proficiency.

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.

See these reports for more information on language use in Hawai'i:

http://dbedt.hawaii.gov/economic/reports_studies/non-english-speaking-population-in-hawaii/

http://files.hawaii.gov/dbedt/economic/data_reports/Non_English_Speaking_Population_in_Hawaii_April_2016.pdf

Maraming salamat po for your consideration and support to members of our community who need language assistance for state services. OLA needs these two positions to effectively meet its objectives and mandate.

HAWAII INTERPRETER ACTION NETWORK

P.O. Box 236024
Honolulu, Hawaii 96823-3519

hawaii.interpreters@gmail.com

To: Chair, Senator Donovan M. Dela Cruz; Vice-chair, Senator Gilbert S.C. Keith-Agaran
Members, Senate Committee on Ways & Means

From: Marcella Alohalani Boido, M.A.
Hawaii Judiciary Certified Spanish Court Interpreter, Tier 4
President, Hawaii Interpreter Action Network

Re: HB 1943, HD 1, SD 1, **SUPPORT**

Date: Wednesday, April 4, 2018, 10:30 a.m., Room 211

Chair Dela Cruz, Vice-Chair Keith-Agaran, and Committee Members: Thank you for hearing HB 1943, HD 1, SD 1. This measure is important to continue the process of improving language access in Hawaii. Hawaii needs to do this both to comply with state and federal law, and out of a simple sense of justice, compassion, and inclusiveness for our people and guests.

Please notice that I did not limit myself to immigrants. We do have Limited-English Proficient (LEP) people needing services who are speakers of an indigenous or other language found in US territories. Hawaiians from Niihau still speak Hawaiian, and we now have a generation coming up for whom Hawaiian is a first language. We also have people from Puerto Rico and Guam, which are US territories, as I'm sure all of you know.

Hawaii's guests, i.e., tourists, also sometimes need an interpreter, or a written translation. People who travel to Hawaii to get married may need some documents translated before the Department of Health will issue a marriage license. Newly arrived residents, including members of the military, may need documents translated to obtain a driver's license. Some residents need interpreters to access these and other government services. We also have medical tourism, particularly from Japan. Regardless of where they come from or the how and why of how they come to be here, LEP individuals need interpreters for medical situations.

Hawaii Interpreter Action Network (HIAN) is a professional association of interpreters and translators. Since 2002, we have worked to advance standards of performance and ethics, and to improve conditions of work and pay in Hawaii. Our members interpret for and provide written translations to government entities, medical facilities, international conferences, and private individuals. Some of our language professionals are so highly skilled that they are flown to interpret not only in other states, but sometimes, in other countries, as well.

From the first effort in the middle 1990s to create the Hawaii State Office on Language Access (OLA), via a bill that was crafted by Bill Hoshijo, until many years later, in 2006, when the bill to create OLA passed, with Patricia McManaman as the main lobbyist, I have personally testified in support of these efforts to improve language access in Hawaii.

OLA first opened its doors in 2007 under the leadership of Dr. Serafin "Jun" Colmenares, Jr., Ph.D. At that time, OLA had a staff of six (6) people.

From 2007 to 2013, I was an appointed member of the Language Access Advisory Council, holding the seat for the representative from a professional association of interpreters. HIAN appreciates that CPH recently gave its approval to Cristina Arsuaga (GM 547) for that position.

In 2009, all staff except for Dr. Colmenares had to leave. We owe it to Dr. Colmenares, big time, that he kept the doors open. We also owe it to Ms. Gail P. McGarvey, OLA's Secretary. She continued to come to work as a volunteer several days a week. Jun and Gail will always have my deep appreciation and respect for keeping OLA going under extremely adverse conditions.

Eventually, in 2012, Gail was re-hired, and Rebecca "Becky" Gardner was able to join the team as OLA's Legal Analyst. (See: <http://health.hawaii.gov/ola/about-us/> for current staff.)

However, **OLA is still severely understaffed in relationship to its purpose and obligations.** As OLA's current Executive Director, Aphirak "AP" Bamrungruan, JD, has so carefully and eloquently explained in his previous testimony, Hawaii needs a more fully functional Office of Language Access. The Legislature has given OLA additional responsibilities, but to date, no additional staff to carry them out. That is untenable. It is crippling to Hawaii's efforts to be more inclusive of our LEP residents and guests, and to comply with applicable laws.

There are people working in state and state-funded agencies who really would like to do more to provide language access, and to improve the language access that they are now providing. They need advice, help, connections to information and other resources. With more staff, with the appropriate background, OLA could provide this.

Let me note that the Legislature mandated OLA to have an on-line roster of interpreters and translators. To date, due to the lack of staff to run the appropriate checks, the people on this roster have not even been required to pass a criminal history record check.

My thanks go to the Filipino Caucus for introducing this bill. Our Hawaii history of inclusion and community integration is one we can be proud of. It was a struggle to achieve this. It took a lot of effort and sacrifice over a long period of time. Hawaii should honor its history of having created a tremendously multi-racial and multi-cultural society. We are pioneers. No matter our flaws and problems, we are still way ahead of a lot of other places.

Hawaii's sons and daughters have risen to local and national positions of leadership. Our homeboy, in great part the product of this environment, did us proud. Now, as his birthplace, and to honor our history of pioneers, we need to keep our heads on our shoulders in the current storm of anti-immigrant feeling and rhetoric. We need to continue working towards our Hawaii vision of a good society.

We need to attend to the parents and relatives of the next generation. Among the valuable lessons of Hawaii's history, is that groups which are marginalized, and sometimes, for long periods of time, will eventually be able to vote. They tend to vote with their memories of Hawaii's history in mind. Let us do our best now to create good memories.

Aphirak "AP" Bamrungruan is a sincere advocate for language access. Current OLA staff are terrific. Now, OLA needs more "hands on deck," so that Hawaii can continue to sail toward a more equitable future.

Respectfully, HIAN asks that you please pass and fund HB 1943, HD 1, SD 1. *Mahalo*, and thank you.

HB-1943-SD-1

Submitted on: 4/2/2018 1:14:45 PM

Testimony for WAM on 4/4/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Deanna Espinas	Testifying for Filipino-American Historical Society of Hawaii	Support	No

Comments:

HB-1943-SD-1

Submitted on: 4/2/2018 8:25:18 PM

Testimony for WAM on 4/4/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i	Support	No

Comments:

HB-1943-SD-1

Submitted on: 4/2/2018 5:58:44 PM

Testimony for WAM on 4/4/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

HB1943 HD1 SD1 will allow the office of language access has to fully perform its statutorily mandated compliance and technical assistance functions. Please pass.

HB-1943-SD-1

Submitted on: 4/2/2018 12:24:37 AM

Testimony for WAM on 4/4/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sarah Toole	Individual	Support	No

Comments:

My name is Sarah Toole, my address is 1128 Ala Napunani St. 96818, and I am a political science student at UH Manoa.

I support this bill.

HB-1943-SD-1

Submitted on: 4/2/2018 8:08:52 PM

Testimony for WAM on 4/4/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Pat McManaman	Individual	Support	No

Comments:

Testimony in Support

As early as 1974, the United States Supreme Court held that failing to take reasonable steps to ensure meaningful access to services for Limited English Proficient (LEP) persons is a form of national origin discrimination prohibited by Title VI of the Civil Rights Act of 1964. See, *Lau v. Nichols*, 414 U.S. 563 (1974). Executive Order 13166, which was issued in 2000, further emphasized the application of Title VI to language access discrimination and required all entities receiving federal funding to provide meaningful access to LEP persons.

Despite the clear mandates of federal law, Hawaii has been cited repeatedly by the Department of Justice and the federal court for its failure to take reasonable steps to ensure meaningful access to services by LEP persons (Department of Human Services, Consent Decree, 2008; Department of Transportation, *FACE v. DOT*, United States District Court for the District of Hawaii, 2015; and Hawaii Judiciary, Technical Assistance Agreement, 2015).

In 2006 this Legislature created the Office of Language Access (OLA). OLA was bold step that reaffirmed Hawaii's commitment to civil rights and inclusive access to services regardless of national origin. OLA remains committed to this vision. Without adequate resources and positions, however, it is unable to fulfill its legislative mandate to provide technical assistance to State entities and to assure compliance with federal and State language access laws.

I urge the Legislature to fully fund OLA. In the absence of full funding, we are inviting reoccurring complaints and costly litigation and place at risk our standing as a welcoming, inclusive State.

Thank you for the opportunity to submit testimony.

Aloha,

Pat McManaman

