

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
**OFFICE OF LANGUAGE ACCESS**  
1177 Alakea Street, Room B-100  
Honolulu, HI 96801-3378  
doh.ola@doh.hawaii.gov

**Testimony COMMENTING on H.B. 728  
RELATING TO STATEWIDE HEALTH PLANNING**

REPRESENTATIVE RYAN I. YAMANE, CHAIR  
HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, & HOMELESSNESS

Hearing Date: 2/11/2021

Room Number: Via Vedioconference

1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's  
2 Executive Budget Request for the Department of Health's (DOH) appropriations and personnel  
3 priorities.

4 **Department Testimony:** The Office of Language Access (OLA) appreciates the intent of this  
5 measure, as it seeks to establish a more coordinated and cost-effective statewide language access  
6 program, provided that the measure's passage does not replace or adversely impact priorities in  
7 the Governor's Executive Budget Request, and offers the following comments.

8 During the 2006 legislative session, this legislative body recognized and acknowledged  
9 that language is a barrier for those living in Hawaii who have identified themselves as being  
10 Limited English Proficient (LEP) individuals. Consequently, the legislature passed Act 290,  
11 Session Laws of Hawaii 2006, and Act 201, Session Laws of Hawaii 2012, to ensure that LEP  
12 individuals have meaningful access to state-provided and state-funded services in Hawaii,  
13 mirroring the language and consistent with the principles espoused by Title VI of Civil Rights  
14 Act of 1964, Executive Order 13166, and implementing regulations.

15 Act 290 and Act 201 also established OLA to address the language access needs of LEP  
16 individuals and ensure their meaningful access to services, programs, and activities offered by  
17 the executive, legislative, and judicial branches of state government, including departments,  
18 offices, commissions, boards, or other state-funded agencies.

19 OLA's task is to provide highly specialized technical assistance and to coordinate  
20 resources to reduce the burden of implementing language access obligations. OLA is charged

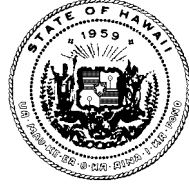
1 with providing oversight, central coordination, and technical assistance to all state and state-  
2 funded agencies in their implementation of language access compliance – a civil right under both  
3 state and federal law.

4 This measure reaffirms the original intent and commitment of this legislative body to the  
5 law and to language access, a civil right for all LEP individuals, by maintaining the existence of  
6 OLA and continuing its operation. OLA has been actively working with DOH and and other  
7 stakeholders to assure continuity for OLA’s critical responsibilities and is making  
8 recommendations to the Governor.

9 This measure also adds additional language, under Section 321C-6 (8)(F), giving OLA  
10 the authority to explore other revenue sources or funding opportunities for language access  
11 resource centers. This will allow OLA to work closely with other partners in the community to  
12 further improve language access in our state.

13 Thank you for the opportunity to comment on this measure.

DAVID Y. IGE  
GOVERNOR



CATHY BETTS  
DIRECTOR

JOSEPH CAMPOS II  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 9, 2021

TO: The Honorable Representative Ryan I. Yamane, Chair  
House Committee on Health, Human Services, & Homelessness

FROM: Cathy Betts, Director

SUBJECT: **HB 728 – RELATING TO STATEWIDE HEALTH PLANNING.**

Hearing: Thursday, February 11, 2021, 9:30 a.m.  
Via Videoconference, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the intent of this bill, offers comments, and respectfully requests that section 321C-6, Hawaii Revised Statutes, remains as is. DHS defers to the Office of Language Access (OLA), and the Department of Health.

**PURPOSE:** This bill provides flexibility to deploy statewide language access programs and resources.

The disparate impact of the pandemic on Pacific Islander communities highlights the necessity for the Office of Language Access (OLA) and its role providing central coordination and technical assistance to state agencies to translate vital health communication and information regarding COVID-19.<sup>1</sup>

State and federal law require DHS and others government entities to maintain language access services for Hawaii's culturally diverse population regarding all public benefits and services. All entities receiving federal funds are subject to provisions of Title VI of the Civil

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<sup>1</sup> See OLA website, at <https://health.hawaii.gov/ola/>.

Rights Act of 1964, 42 U.S.C. 2000d, et seq. (Title VI), that prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance and must provide meaningful access to services.

The DHS Language Access Coordinator works closely with OLA and relies on OLA's technical assistance procuring translation services, coordinating interpreting services, and developing outreach materials to improve access to public benefits and health and well-being information.

DHS respectfully requests that the section 321C-6, Hawaii Revised Statutes, remain in its current form ("shall") and not be diluted to become optional ("may"). Especially in the current pandemic condition where additional federal assistance is necessary to address the tremendous needs of Hawaii's residents and businesses, government agencies need the services and technical expertise that OLA provides to maintain meaningful access to benefits and services for Hawaii's residents with limited English language proficiency.

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

# THE LANGUAGE ACCESS ADVISORY COUNCIL

State of Hawaii Office of Language Access

1177 Alakea Street, Room B-100, Honolulu, HI 96813, (808) 586-8730

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February 10, 2021

TO: The Honorable Representative Ryan Yamane, Chair  
House Committee on Health, Human Services & Homelessness

The Honorable Representative Adrian Tam, Vice-Chair  
House Committee on Health, Human Services & Homelessness

FROM: Terrina Wong, Chair  
The Language Access Advisory Council

SUBJECT: Support of HB 728 – RELATING TO STATEWIDE HEALTH PLANNING.

Hearing: Tuesday, February 11, 2021, 9:30 a.m.

My name is Terrina Wong. I am the Chair of the Language Access Advisory Council (LAAC) and I am submitting this testimony in support on this measure, on behalf of the council members who represent by statute a broad spectrum of those individuals and entities (government and non-profit) directly involved with providing meaningful language access to our community. This Council has statutory duties to advise OLA and to provide input on implementation and compliance of the language access law.

Language access is a civil right. This right derives from Title VI of the Civil Rights Act of 1964 which provides that, “[n]o 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.

In Hawaii, the imperative for language access stems from our rich diversity. According to the 2019 State of Hawaii Data Book released by the Hawaii Department of Business, Economic Development & Tourism, Hawaii’s total population aged 5 years and older is 1,331,641 with 326,893 (25.4%) or roughly 1 in 4 of our population speaking a language other than English at home. Among that population, 159,497 (12%) or roughly 1 in 9 indicated that they speak English “less than very well,” classifying them as Limited English Proficient (LEP) individuals.

For LEP individuals, language access is a significant barrier for them in accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, and understanding complex information provided by government and government-funded programs and activities; especially during the COVID19 pandemic where language access is more important than ever as those LEP individuals have historically faced

challenges in seeking meaningful access to health information and supportive services. Moreover, success and effectiveness of the State of Hawai'i's communications – both plans and protocols, related to all aspects of Covid-19 depend upon the community acquiring and understanding accurate information.

The pandemic has exposed marked disparities in Hawai'i's delivery of meaningful language access related to health care, unemployment benefits and other essential services. Meaningful language access becomes imperative to avoid mis-information or no information to our most vulnerable with limited to no English proficiency.

During this pandemic, OLA plays a vital role in supporting state agencies to effectively communicate with LEP. Specifically, OLA has stepped in to coordinate and to provide much-needed multilingual written materials and VDO messages on its website with an aggregate total of more than 230,000 views for those who depend on meaningful and effective communication.

The LAAC appreciates the intent of this bill as it demonstrates the commitment to language access by maintaining the existence of the Office of Language Access and its operations to ensure meaningful access to our LEP population.

Thank you for your consideration and for this opportunity to provide testimony.



**TESTIMONY IN SUPPORT OF H.B. 728**

REPRESENTATIVE RYAN I. YAMANE, CHAIR  
REPRESENTATIVE ADRIAN TAM, VICE-CHAIR

**HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, AND HOMELESSNESS**

Hearing Date: 2/11/2021

Room Number: 329

Chair Yamane, Co-Chair Tam, and Members of the Committee:

The Hawai'i Friends of Civil Rights supports H.B. 728 which provides the Office of Language Access (OLA) with flexibility in hiring during the COVID-19 pandemic and allows OLA to explore funding opportunities to enhance its language access resource center.

The Office of Language Access (OLA) was created by this Legislature in 2006, in large part, to address Hawai'i's failure to come into compliance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, 2000. OLA's essential mandate is to provide oversight and central coordination to state agencies, (the executive, legislative and judicial branches of Hawai'i's state government) as well as technical assistance to state and covered entities, in developing and implementing their Language Access Plan as required by law.

The pandemic has highlighted the State's continuing failure to provide Hawai'i's limited English proficient (LEP) residents with vital language access assistance despite OLA's best efforts. Since 2006, numerous federal lawsuits, federal complaints and consent agreements have directed State departments and agencies to comply with existing federal and State Civil Rights laws. Yet, a cursory review of essential State websites reveals:

- An LEP person seeking vital information related to natural disasters or how to sign up for emergency alerts is met with English only advice from the Department of Defense, Hawai'i Emergency Management Agency's website.
- An LEP person seeking Unemployment Compensation or Pandemic Unemployment Assistance is afforded no vital information in a language other than English and, during the pandemic, calls for assistance went unanswered or when answered many LEP persons were advised that the DLIR did not provide interpreters, or asked to have their children interpret for them, or simply disconnected. As a result of these failures a recent complaint was filed against DLIR with the federal Department of Labor.

- An LEP person seeking information from the Department of Health, (DOH) related to COVID-19 found none, in the early days of the pandemic. OLA intervened and developed 19 COVID-19 related handouts and translated those handouts to 16 different languages commonly found in Hawai'i, including Hawaiian.

Recently, the DOH embedded a machine-based translation program in the Hawaiiicovid19.com website. Despite the DOH's best intentions, the program does not provide translation in Ilocano, Marshallese, Chuukese, Tongan and other critical languages found in Hawai'i. The use of machine-based translation programs is disfavored by the federal Department of Health and Human Services and are only permitted where a qualified translator reviews the translations for accuracy and edits documents as appropriate. See, Non-Discrimination in Health Programs and Activities; Final Rule, Department of Health and Human Services, Federal Register, Vol. 81, No. 96, May 18, 2016.

- An LEP person wishing to register for a COVID-19 vaccination sees only instructions in English and the registration forms are also in English only, apart from Kaiser Permanent which provides this information in Spanish.

*If miscommunication during the pandemic has been a problem, imagine no information at all.*

COVID-19 has shined a spotlight on the reoccurring language access inequities – often a matter of life and death- confronting LEP individuals and families in Hawai'i. As we leverage this moment in time to create a better Hawai'i it is imperative that the Executive and Legislative branches address the lack of language access with urgency.

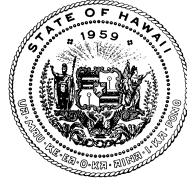
We fully support H.B. 728 and are grateful to the Committee for introducing and hearing this measure.

Thank you for your consideration,

Amy Agbayani, Co-chair, Hawai'i Friends of Civil Rights  
Pat McManaman, Co-chair, Hawai'i Friends of Civil Rights



DAVID Y. IGE  
GOVERNOR OF HAWAII



ELIZABETH A. CHAR, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. Box 3378  
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**Testimony in SUPPORT of HB308  
RELATING TO GRANT FOR HEALTH AND HUMAN SERVICES.**

REP. RYAN I. YAMANE, CHAIR  
HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, & HOMELESSNESS

Hearing Date: February 11, 2021      Room Number: N/A

1    **Department Testimony:** The Department of Health (DOH) supports the intent of HB308,  
2    which is to maximize federal funds related to health and human services. The department defers  
3    to the Executive Biennium Request for prioritization of new positions and funding sources.  
4    Historically, the state of Hawaii has not brought in as many federal funds related to health as  
5    have other states with similar population sizes, in large part due to lack of support for grants  
6    development. For example, according to an analysis of U.S. Department of Health and Human  
7    Services data, in FY 2021, Hawaii brought in \$543,223,060 from HHS sources (approx.  
8    \$384,000 per capita). For comparison, in FY 2021 and from HHS sources, Maine brought in  
9    \$682,744,785 (approx. \$508,000 per capita), Rhode Island brought in \$648,712,476 (approx.  
10    \$612,000 per capita), and Alaska brought in \$1,266,528,621 (approx. \$1,731,000 per capita).  
11    Additional federal grant funds may be drawn down if DOH and the Department of Human  
12    Services, to begin with, were more robustly supported through training and capacity-building (in  
13    the processes of budget/appropriations and grantseeking); identification of grant opportunities;  
14    elicitation of innovative grant proposals; fostering of cross-sector partnerships; technical  
15    assistance with grant writing and the pre- and post-award processes; and evaluation. A  
16    partnership with the University of Hawaii (UH) system in this regard would add even greater  
17    value due to UH's expertise in grants development and the budget and appropriations processes,  
18    and may be considered in scope for this measure.

1 Enabling statute may inspire DOH, DHS, and UH to collaborate to:

- 2 • Understand the current grant-seeking landscape in Hawai'i,
- 3 • Build capacity across all sectors – nonprofit, public, private – to pursue competitive
- 4 funding from federal, foundation, corporate and other sources,
- 5 • Increase general understanding of the elements of grantsmanship to improve the quality
- 6 of grant applications,
- 7 • Source innovative funding ideas and refine them to be competitive,
- 8 • Encourage cross-sector collaborations to support sustainable solutions with broad
- 9 community support,
- 10 • Generate investment toward providing matching funds,
- 11 • Establish and solidify relationships with funders, and
- 12 • Boost the number of grants submitted to various sources from Hawai'i entities.

13 This will result in greater leveraging of state and federal programs to improve health and health  
14 care in Hawaii and the Pacific, including through advancing health in all policies, on top of  
15 maximizing the ability of the state of Hawaii to bring in federal dollars.

16 Thank you for the opportunity to testify.

17 **Offered Amendments:** N/A.

18



**TESTIMONY IN SUPPORT OF H.B. 728**

REPRESENTATIVE RYAN I. YAMANE, CHAIR  
REPRESENTATIVE ADRIAN TAM, VICE-CHAIR

**HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, AND HOMELESSNESS**

Hearing Date: 2/11/2021

Room Number: 329

Chair Yamane, Co-Chair Tam, and Members of the Committee:

The Hawai'i Friends of Civil Rights supports H.B. 728 which provides the Office of Language Access (OLA) with flexibility in hiring during the COVID-19 pandemic and allows OLA to explore funding opportunities to enhance its language access resource center.

The Office of Language Access (OLA) was created by this Legislature in 2006, in large part, to address Hawai'i's failure to come into compliance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, 2000. OLA's essential mandate is to provide oversight and central coordination to state agencies, (the executive, legislative and judicial branches of Hawai'i's state government) as well as technical assistance to state and covered entities, in developing and implementing their Language Access Plan as required by law.

The pandemic has highlighted the State's continuing failure to provide Hawai'i's limited English proficient (LEP) residents with vital language access assistance despite OLA's best efforts. Since 2006, numerous federal lawsuits, federal complaints and consent agreements have directed State departments and agencies to comply with existing federal and State Civil Rights laws. Yet, a cursory review of essential State websites reveals:

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***If miscommunication during the pandemic has been a problem, imagine no information at all.***

COVID-19 has shined a spotlight on the reoccurring language access inequities – often a matter of life and death- confronting LEP individuals and families in Hawai'i. As we leverage this moment in time to create a better Hawai'i it is imperative that the Executive and Legislative branches address the lack of language access with urgency.

We fully support H.B. 728 and are grateful to the Committee for introducing and hearing this measure.

Thank you for your consideration,

Amy Agbayani, Co-chair, Hawai'i Friends of Civil Rights  
Pat McManaman, Co-chair, Hawai'i Friends of Civil Rights

**Testimony in SUPPORT of H.B. 728  
RELATING TO STATEWIDE HEALTH PLANNING**

Representative RYAN I. YAMANE, Chair  
Representative ADRIAN K. TAM, Vice-Chair

**HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, & HOMELESSNESS**

Hearing Date: 2/11/2021

Room Number: 329

Chair Yamane and Vice-Chair Tam:

The Hawai'i Coalition for Immigrant Rights supports HB 728 which provides the Office of Language Access (OLA) with flexibility in hiring during the COVID-19 pandemic and allows OLA to explore funding opportunities to enhance its language access resource center.

Created by Legislature in 2006, the Office of Language Access (OLA) was a bold step that reaffirmed Hawai'i's commitment to Civil Rights and inclusive access to services regardless of national origin. Despite OLA's significant advocacy on behalf of limited English proficient (LEP) persons, the Governor's proposed budget would strip away OLA's independence, leave it without an Executive Director and render all its statutory functions optional.

As early as 1974, the United States Supreme Court held that failure to ensure meaningful access to services for LEP persons is a form of discrimination prohibited by Title VI of the Civil Rights Act of 1964 (Title VI). See, Lau v. Nichols, 414 U.S. 563 (1974). In furtherance of Title VI, Executive Order 13166 of August 11, 2000, directed all federal agencies and entities that received federal funding to examine their services and to develop and implement systems to provide meaningful access to LEP persons. See, Federal Register, Vol 65, No159, August 16, 2000.

Despite clear federal and State mandates, Hawai'i has been cited repeatedly by the federal Department of Justice and the federal court for its failure to take reasonable steps to ensure meaningful access to services by LEP persons: Hawai'i Department of Human Services, Consent Decree (2008); Hawai'i Office of Elections, United States District Court for the District of Hawai'i, Settlement Agreement (2010); Hawai'i Department of Transportation, FACE v. DOT, United States District Court for the District of Hawai'i Settlement Agreement (2015); Hawai'i Judiciary, Technical Assistance Agreement (2015); Hawai'i Public Housing Authority, Settlement Agreement with the Hawai'i Civil Rights Commission (2016). Additionally, multiple language access complaints were filed in 2020 against the Hawai'i Department of Labor and Industrial Relations Unemployment Insurance Division for its failure to translate vital documents, including applications for Unemployment Insurance (UI) and Pandemic

Unemployment Assistance (PUA), and its failure to provide interpreters. These complaints remain pending with the federal Department of Labor, Civil Rights Division.

In the early days of the Pandemic, the Department of Health (DOH) regrettably let down Hawai'i's LEP communities, denying the existence of health care disparities and making no effort to reach the linguistically isolated Hawai'i Pacific Islander or Filipino communities. To address the communication void, OLA created 19 different COVID-19-related educational handouts and translated them to the 16 most common languages in Hawai'i. OLA broadcast these handouts to immigrant leaders and soon became a key source of information in the community-led education efforts to defeat COVID-19.

While the DOH is to be credited for its recent outreach efforts to the LEP community, we cannot forget that Hawai'i's Pacific Island and Filipino communities have suffered the highest disproportionate rates of infection, hospitalization, and death during the pandemic and that the DOH and other Departments have failed to leverage the Internet to better serve the public, including LEP persons. The State's failure to translate vital health care information, and applications and instructions for accessing unemployment benefits are but two examples.

The Internet has changed the way the public and government entities interact with each other and allows programs and services to be offered in more dynamic, interactive, and cost-efficient ways. Embedding a machine translation program, like Google Translate, in webpages does not, however, resolve the language divide. See, for example, [hawaiiicovid19.com](http://hawaiiicovid19.com). Because machine translated programs are highly unreliable for certain languages and content, federal Department of Health and Human Services' regulations provide that these tools will only satisfy federal language access rules where a qualified translator review the translations for accuracy and edits the documents as appropriate. See, *Non-Discrimination in Health Programs and Activities; Final Rule*, Department of Health and Human Services, Federal Register, Vol. 81, No. 96, May 18, 2016. The utilization of many common machine translation programs is also illusory as they do not provide for translations for many languages including Ilocano, Marshallese, Chuukese, Tongan and other critical languages commonly found in Hawai'i. Finally, it must be noted that DOH has yet to post any multilingual vaccine registration information in Ilocano, Marshallese, Chuukese and Tongan on its website.

COVID-19 has shined a spotlight on the reoccurring inequities – often a matter of life or death – confronting LEP individuals and families in Hawai'i. We hope this bill will foster discussions within the Legislature and prompt a renewed commitment to ending racial and national origin disparities as we collectively carve a path forward for Hawai'i's future.

Thank you for your support and consideration,

Catherine Chen, Co-chair, Hawai'i Coalition for Immigrant Rights  
Liza Ryan Gill, Co-chair, Hawai'i Coalition for Immigrant Rights

**HB-728**

Submitted on: 2/9/2021 11:42:24 AM

Testimony for HHH on 2/11/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Thaddeus Pham	Individual	Support	No

Comments:

HHH Committee Members,

I am writing in support of HB278. As a public health professional working with low English proficiency (LEP) people and the son of Vietnamese refugees, I have witnessed firsthand the need for culturally competent language access for many local communities. The COVID-19 pandemic continues to highlight the stark disparities in healthcare access, especially for LEP communities, and this is not the time to remove/change essential infrastructure like the Office of Language Access.

Thank you for your consideration of this testimony.

Thaddeus Pham (he/him)

**HB-728**

Submitted on: 2/9/2021 11:58:21 AM

Testimony for HHH on 2/11/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Liza Ryan Gill	Individual	Oppose	No

Comments:

Aloha Chair Yamane and Members of the Committees,

I am writing to oppose HB728. The Office of Language Access serves a critical function for the state by providing resources and helping agencies maintain their compliance with Language Access law. Throughout the last year we have seen how critical it is that public health and public benefit information is provided in the native languages of all of our residents. Failure to do this has caused wide spread disparities in the communication of disease, at one point 30% of all COVID-19 cases were among our Non-NH PI communities, despite the fact they are only 4% of the population. I am sympathetic to the current gapping hole in our state budget and the need to cut from programs across the board. However, I think that we cut OLA or reduce staffing at our own peril. If our state economy is to recover we need to keep our virus-levels down, in order to do that we need to make sure communities that have had the greatest community spread continue to receive the information on vaccination and other resources that they need. If OLA is not there to make sure this happens, in a meaningful way, we could be crippling our own best efforts. Mahalo for you consideration.

Best,

Liza Ryan Gill

Chair, The Legal Clinic Advocacy Committee



**HB-728**

Submitted on: 2/9/2021 2:47:15 PM

Testimony for HHH on 2/11/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Christy MacPherson	Individual	Support	No

Comments:

I strongly support this bill.