

OLA QUARTERLY

Official Newsletter of the
Office of Language Access, State of Hawai'i
O ka 'ōlelo ke ola - Language is Life



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Free Language Access Workshops for Oahu Non-Profit, State and County Staff Held

Two language access training workshops for staff of non-profit, state and county agencies on Oahu were recently held during the month of April 2011. The workshops, sponsored by the Office of Language Access, covered two topics: "Serving LEP Individuals Through Interpreters" and "The Role of Bilingual Staff." The workshops were held on April 11, 2011 at the Susannah Wesley Community Center Multipurpose Room and on April 20, 2011 at the Department of Labor and Industrial Relations Conference Rooms 310-314.

The trainers for the two workshops were Dr. Suzanne Zeng of the UH Center for Interpretation and Translation Studies, and L. Dew Kaneshiro, a private consultant and former director of the Office on Equality and Access to the Courts.

A total of 106 persons attended the April 11 training (65 in the morning and 45 in the afternoon), while 99 attended the April 20 sessions (60 in the morning and 39 in the afternoon). Most of those who attended came from the nonprofit sector.

A preliminary look at the training evaluation results showed that more than 75% of those who attended rated the workshops excellent, or an overall rating of 4.73 out of 5.0. Most attendees (67%) also rated the workshop as highly applicable to their jobs (4.57 out of 5.0). Many attendees considered the topics covered as very important and want the workshops (and related trainings) to be offered more often.

Special thanks to Susannah Wesley Community Center and DLIR for the use of their facilities. Mahalo also to Dominic Inocelda, Gail McGarvey, Casey Cho and Terry Visperas for their assistance.

4th ANNUAL HAWAII CONFERENCE ON LANGUAGE ACCESS TO BE HELD IN AUGUST 2011

The Office of Language Access (OLA) is in the planning stages for the holding of the 4th Annual Hawaii Conference on Language Access on August 31, 2011 at the East-West Center. This will be the only activity being held in celebration of August as language access month in Hawaii.

The conference will focus on finding ways by which first responders—police, fire, EMS personnel, ER staff—can improve their services to limited English proficient (LEP) individuals. The conference hopes to bring together, in addition to first responders, staff of health and human services providers, hospitals, urgent care and community clinics, 911 and 211 operators, and other emergency providers, as well as members of the LEP community and language access practitioners and advocates. National as well as local speakers are expected to grace the conference.

As before, the conference will be free. It is being co-sponsored by the Office of Language Access and the Office of Community Services of the Department of Labor and Industrial Relations.



Message from the Executive Director

Aloha. I am happy to report on some new developments since the last issue of this newsletter.

The training for staff of non-profit, state and county organizations on Oahu was recently held. The training on the topics "Serving LEP Individuals Through Interpreters" and "The Role of Bilingual Staff" were held on two separate days—April 11, 2011 at Susannah Wesley Community Center and April 20, 2011 at the DLIR Multipurpose Conference Rooms. The free workshops were conducted by Dr. Suzanne Zeng and L. Dew Kaneshiro and were attended by a total of 205 individuals.

Planning for the 4th Annual Hawaii Conference on Language Access has started. This year, the conference will focus on first responders and how their services to LEP individuals can be improved. The conference will be held on August 31, 2011 at the East-West Center.

The request for the establishment and filling of the two OLA positions that were restored and funded by the 2010 State Legislature was endorsed by the DLIR director and submitted to the Department of Budget and Finance last January 25, 2011. A letter to the Governor supporting the request was also sent by the Language Access Advisory Council. Unfortunately, due to the current fiscal situation, the administration has decided to freeze all hiring of staff during this fiscal year. We will try again next fiscal year, granting that the requested positions remain in the next fiscal year's executive budget. We strongly believe that the effective performance of OLA's mandated functions is key to providing needed language services and ensuring equal access by LEP individuals to state-funded programs in Hawaii, and that this can be done by providing the office much-needed staff support.

OLA is in the process of updating its list of state language access coordinators and has sent a memo to all state agencies regarding this. A meeting of all state language access coordinators will be held on May 25, 2011 to serve as an orientation or a reminder for language access coordinators of their functions. In the meantime, a memo reminding federally-funded state agencies about the July 1, 2011 deadline for the submission of revised language access plans has also been sent out.

OLA is saying aloha to Sr. Earnest Chung, member of the Language Access Advisory Council. She will be taking a position with the Maryknoll Sisters in New York. Sister Earnest has been a passionate supporter of language access—she is one of those responsible for the passage of the law and the establishment of the Office of Language Access—and is a vocal advocate for equal rights and social justice, especially for immigrants. We wish Sister Earnest all the best as she takes on her new job. We will also be missing Dr. Sue Zeng whose term has not been extended. Sue has been providing training workshops to staff of state, county and nonprofit agencies and had helped organize our annual language access conferences. The two will surely be missed. Jennifer Dotson, whose replacement has not been appointed, will continue to serve as member in a hold-over capacity.

Finally, I would like to welcome Dr. Ruth Mabanglo, whose appointment to the Language Access Advisory Council was recently confirmed. Ruth is a professor at the UH College of Languages, Linguistics and Literature, Department of Hawaiian and Indo-Pacific Languages, and heads the Filipino and Philippine Literature Program.

STATE LANGUAGE ACCESS COORDINATORS MEETING SCHEDULED

The first state language access coordinators' meeting for this year will be held on Wednesday, May 25, 2011 at the DLIR Conference Rooms 310-314 from 10:00 a.m. to 12:00 noon. It is to be noted that Hawaii's language access law requires all state agencies to designate their language access coordinators. There are 25 language access coordinators representing the executive, legislative and judicial branches of state government.

Since there are new language access coordinators and since this is the first under the new administration, the meeting will serve as an orientation and will cover the following topics: an overview of Hawaii's language access law, the functions of the Office of Language Access, the role of language access coordinators, the elements of a language access plan, reporting requirements, and future meeting schedule.

JAPANESE RESEARCHERS VISIT OLA

A group of language access researchers from Japan recently visited the Office of Language Access on March 9, 2011 to learn about Hawaii's language access law and the work of the office. The visitors were Dr. Gishu Watanabe, Dean of the Konan Law School in Kobe, Japan; Prof. Makiko Mizuno of Kinjo Gakuin University in Nagoya, Japan; and Prof. Sachiko Nakamura of Aichi Gakuin University of Aichi, Japan. Dr. Jun Colmenares, OLA executive director, together with Dominic Inocelda, language access council chair, Gerald Ohta, council vice chair, and Dr. Suzanne Zeng of the UH Center for Interpretation and Translation Studies, also a council member, met with them.

The visitors were in Hawaii to do research on language access policies and implementation, particularly the use of interpreters in the courts. They attended a couple of court hearings to observe and get some insights into the nuances of court interpreting.

They also made a presentation before students, faculty and community members at the UH Richardson School of Law about a recent Japanese language access court case involving an English-speaking South African national which they were involved in. The presentation gave a picture of the Japanese legal system and how language interpreters are used in Japanese courts.



Left to right: Gerald Ohta, Dr. Gishu Watanabe, Prof. Makiko Mizuno, Prof. Sachiko Nakamura, Dr. Jun Colmenares, Dominic Inocelda, and Dr. Suzanne Zeng.

ALOHA TO ADVISORY BOARD MEMBERS

Two members of the Language Access Advisory Council—Sr. Earnest Chung and Dr. Suzanne Zeng—will be leaving the Council soon.

Sr. Earnest is resigning from the Council effective immediately to accept a position with the Maryknoll Sisters in Ossining, New York. Sr. Earnest is the Policy Adviser for Catholic Charities Hawaii and she has been with the Council from the very beginning. She is chair of the Council's legislative committee and has assisted the Office of Language Access in its annual statewide conferences. She is also one of the original members of the Interagency Council on Immigrant Services, one of those who worked for the passage of the language access law, and has been an active advocate for community issues, particularly civil rights. Her term expires next year.

Dr. Suzanne Zeng's term, which ends on June 30, 2011, has not been extended. Sue is a professor at the University of Hawaii's Center for Interpretation and Translation Studies. She has a Ph.D. in linguistics and is fluent in Mandarin. Sue has been providing training to state, county and nonprofit agencies on the use of interpreters and the role of bilingual staff, and has been actively involved in revising the multilingual posters and in organizing OLA's annual conferences. OLA will be losing a great resource in Sue.

Meanwhile, Jennifer Dotson, whose term also ends on June 30, 2011, has not been reappointed. But nobody has been appointed to take her place and, as a result, Jennifer will remain as member in a hold-over capacity. Jennifer has been chair of OLA's annual conference for the past two years and is also chairing this year's conference.

A big mahalo to our two departing Advisory Council members for their contributions to the Council, the Office of Language Access, and language access in general. We will surely miss them.

Online Interpreter Training—A New Trend

For years we said it couldn't be done: online interpreter training. But new models are emerging, and many interpreters who can't attend in-person trainings due to travel costs are interested.

In addition, a growing number of organizations that employ bilingual staff are interested in online training for interpreters.

Essentially, three primary models have emerged:

1. **Basic online training.** This involves an interpreter alone with a computer—any time, anywhere. The interpreter moves through each module or unit lesson by lesson at his or her own pace.
2. **Distance learning.** In this type of training, the interpreter attends scheduled lessons over the Internet with a live instructor. In some courses, the instructors and students can see and hear each other in real time via webcam or other technology. In other courses, they can only hear each other or communicate online. In any of these models, students can ask the instructor questions and get answers in real time.
3. **Hybrid models.** In these forms of instruction, some learning takes place at the student's discretion, combined with scheduled blocs of time when an instructor is either available online for questions or actually teaches online.

In the U.S. so far, we appear to be seeing such courses pop up primarily in legal and medical interpreting. Well-known examples include programs by de la Mora Interpreter Training and Bromberg and Associates (for legal interpreting), University of Massachusetts Amherst and Culture Advantage (for medical interpreting) and a small but growing number of community colleges.

This trend may be international. We have heard from England about DPSI (www.dpsionline.co.uk) which offers online courses for legal interpreters.

How effective are these programs? It's too early to tell.

Taken from "Intersect" (Cross Cultural Communications), March 2011.

THE HIGH COSTS OF LANGUAGE BARRIERS IN MEDICAL MALPRACTICE

This study analyzed medical malpractice claims of a malpractice carrier that insures in four states to identify when language barriers may have resulted in harm to the patient. It was conducted by the University of California at Berkeley, School of Public Health pursuant to a contract with the National Health Law Program (NHelp). The purpose of the study was to identify malpractice claims in which language barriers may have had a direct or indirect impact on the patient's health outcome.

In 35 claims (closed from January 2005 through May 2009), the carrier paid \$2,289,000 in damages or settlements and \$2,793,800 in legal fees. These claims highlight several aspects related to the failure to provide appropriate language services:

- The cases resulted in many patients suffering death and irreparable harm. Two children and three adults died. In one case, the deceased child was used as an interpreter before suffering respiratory arrest. In another, the deceased child's 16-year-old sibling was used as the interpreter. One patient was rendered comatose, one underwent a leg amputation, and a child suffered major organ damage.
- In 32 of the 35 cases, the health care providers did not use competent interpreters. In 12 cases, family members or friends were used as interpreters, including minor children in two cases.
- Twelve of the claims involved the failure to translate important documents such as informed consent forms and discharge instructions.
- Nearly all the cases demonstrated poor documentation of a patient's limited English proficiency or the need for an interpreter. None of the medical records documented that the health care provider offered a competent interpreter.
- Some cases illustrated how health care providers and lawyers alike presumed that the apparent concordance of race, ethnicity or language between patient and physician ensured effective communication. This problem was more common with Asian patients because many providers tend to aggregate the diverse Asian languages and cultures as "Asian" or "Chinese." Providers were confused about the distinctions between Cantonese, Mandarin, other Chinese dialects and Vietnamese.

Taken from "Intersect" (Cross Cultural Communications), April 2011.

News From Other States

ATTORNEY GENERAL ISSUES MEMO ON FEDERAL GOVERNMENT'S RENEWED COMMITMENT TO LANGUAGE ACCESS

U.S. Attorney General Eric Holder Jr. recently issued a memorandum for heads of federal agencies, general counsels and civil rights heads regarding the federal government's renewed commitment to language access obligations under Executive Order 13166.

In the February 17, 2011 memo, the attorney general pointed out that "whether in an emergency or in the course of routine business matters, the success of government efforts to effectively communicate with members of the public depends on the widespread and nondiscriminatory availability of accurate, timely, and vital information. Events such as the H1N1 influenza pandemic, Hurricanes Katrina and Rita, the Gulf oil spill, and the 2010 Decennial Census highlight the need for federal agencies to ensure language access both in their own activities, as well as in those of the recipients of federal financial assistance." He goes on to say that "despite the legal and public service obligations that compel federal agencies and recipients to ensure language access, a 2006 language access survey of the federal government revealed significant variations in the extent to which federal agencies are aware of, and in compliance with, principles of language access. This conclusion is buttressed by an April 2010 Government Accountability Office (GAO) report on language access at federal agencies. That report offers concrete suggestions, some of which are incorporated in this memorandum, for improving our efforts to comply with Executive Order 13166. Further, federal interagency language access conferences held over the last few years reveal that, while the federal government as a whole has taken commendable strides toward providing language access in certain areas, the implementation of comprehensive language access programs remains uneven throughout the federal government and among recipients of federal financial assistance, especially in the face of limited resources and personnel."

In an effort to secure the federal government's full compliance with Executive Order 13166, the Attorney General requested all agencies to join the Department of Justice in recommitting to the implementation of the said order by undertaking the following:

1. Establish a Language Access Working Group that is responsible for implementing the provisions of the Executive Order.
2. Evaluate and/or update current response to LEP needs by, among other things, conducting an inventory of languages most frequently encountered, identifying the primary channels of contact with LEP community members, and reviewing agency programs and activities for language accessibility.
3. Establish a schedule to periodically evaluate and update federal agency LEP services, policies, plans and protocols.
4. Ensure that agency staff can competently identify LEP contact situations and take the necessary steps to provide meaningful access.
5. Notify the public, through mechanisms that will reach the LEP communities you serve, of your LEP policies, plans and procedures, and LEP access-related developments.
6. When considering hiring criteria, assess the extent to which non-English language proficiency would be necessary for particular positions or to fulfill your agency's mission.
7. For written translations, collaborate with other agencies to share resources, improve efficiency, standardize federal terminology, and streamline processes for obtaining community feedback on the accuracy and quality of professional translations intended for mass distribution.
8. For agencies providing federal financial assistance, draft recipient guidance on compliance with language access obligations. Federal funding agencies should regularly review recipient compliance, and provide vigorous technical assistance and enforcement action in appropriate cases.

A supplement to the Attorney General's memorandum contains specifics of implementation for the action items listed above. For further technical assistance or support in implementing the goals of Executive Order 13166, contact Christine Stoneman or Bharathi Venkatraman at the Federal Coordination and Compliance Section at (202) 307-2222.

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TENNESSEE COUNTY SUED ON INTERPRETER COSTS

(Excerpted from Todd Smith, Chattanooga, Tennessee *Times-Free Press*, April 16, 2011)

A federal lawsuit filed this week alleges that Bradley County General Sessions Court has violated non-English speaking defendants' civil rights by making them pay for interpreters.

Attorneys on both sides of the case said the issue has state and national implications.

The lawsuit, filed in U.S. District Court in Chattanooga by Flores Vidal Enriquez and Mark Weissenberg, states that the Bradley County General Sessions Court charged Enriquez for interpreter services provided by Weissenberg.

The U.S. Department of Justice has maintained for at least a decade that a defendant's right to a fair trial includes the right to interpreter services at court expense.

"This is an important issue for our community. As the complaint states, many residents need an interpreter in order to have meaningful access to our courts," said attorney Travis McDonough with the Miller & Martin law firm in an email Friday. He and Kevin Hudson represent the plaintiffs.

The suit seeks an injunction to stop the Bradley court from charging for interpreter services and undisclosed compensation for Weissenberg, who claims he wasn't paid for interpreting work. But Bradley County Attorney Joe Byrd said the rule is in direct conflict with Tennessee law, which requires that interpreter services be included in court costs if a defendant is not indigent.

"The question is, can you ever charge a defendant court costs for an interpreter?" he said. "You're looking at something that's across the state of Tennessee and in other states. It's an issue that needs to be settled, not just for Bradley County, not just for Tennessee."

Dates to Remember

May 5, 2011—Adjournment of 2011 Hawaii State Legislative Session.

May 11, 2011 —Language Access Advisory Council Meeting, 9:30 to 11:00 a.m., DLIR Conference Room 320, 830 Punchbowl Street, Honolulu.

May 25, 2011—State Language Access Coordinators Meeting, 10:00 a.m. to 12:00 noon, DLIR Multipurpose Conference Rooms 310-314, 830 Punchbowl Street, Honolulu.

June 8, 2011 —Language Access Advisory Council Meeting, 9:30 to 11:00 a.m., DLIR Conference Room 320, 830 Punchbowl Street, Honolulu.

July 1, 2011—Deadline for the submission of revised language access plans to the Office of Language Access for state agencies receiving federal funds.

July 13, 2011—Language Access Advisory Council Meeting, 9:30 to 11:00 a.m., DLIR Conference Room 320, 830 Punchbowl Street, Honolulu.

August 31, 2011—4th Hawaii Annual Conference on Language Access, LEP and the Role of First Responders, East West Center, sponsored by the Office of Language Access.