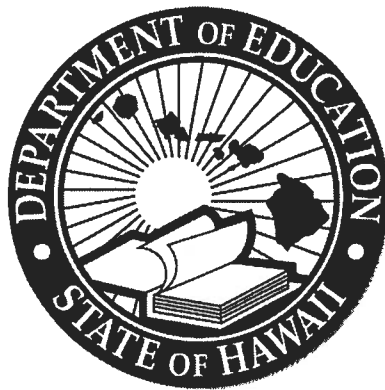


# **Hawaii State Department of Education**



## **Language Access Plan November 2017**

## I. INTRODUCTION

Hawai'i 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, 2010-2014 American Community Survey (ACS) 5-year estimates, the total population in the state of Hawai'i was 1,345,972. An estimated 25.3% or 329,072 of Hawai'i residents, five years and older, speak a language other than English at home.<sup>1</sup> Of those, 161,551 or 12.4% indicated that they speak English "less than very well," ranking Hawai'i fourth in the nation.<sup>2</sup> According to a 2012 U.S. Census Bureau Press Release, Hawai'i is one of only five "majority-minority" states (with the District of Columbia, California, New Mexico and Texas).<sup>3</sup> Hawai'i has the largest minority population (75%) of all states. Nearly 22% of the Asian Pacific Island language speakers in Hawai'i speak a language other than English at home, and of those 53% speak English less than "very well."<sup>4</sup>

For the 2016-2017 school year, the home language data showed that 84% of DOE students spoke English at home. Four percent of students spoke Ilokano, two percent of students spoke Chuukese or Tagalog, and one percent of students spoke Cantonese, Japanese Mandarin, Marshallese, Samoan, Spanish, or Vietnamese. The following languages were representative for less than one percent of students: Afrikaans, American Sign Language, Arabic, Bengali, Bikol, Burmese, Cambodian, Carolinian, Cebuano/Visayan, Chamorro, Chavacano, Croatian, Czech, Dutch, Estonian, Fijian, Finnish, French, German, Gilbertese, Greek, Hakka Chinese, Hawaiian, Hebrew, Hiligaynon, Hindi, Hmong, Hungarian, Icelandic, Indonesian, Italian, Korean, Kosraean, Lao, Lithuanian, Macedonian, Malay, Maori, Min Bei, Min Nan Chinese, Mokilese, Mongolian, Nepali, Norwegian, Palauan, Paluan, Pampango, Pangasinan, Persian, Pohnpeian, Polish, Portuguese, Romanian, Russian, Serbian, Serbo-Croatian, Slovak, Slovenian, Swahili, Swedish, Tahitian, Tai, Tamil, Telungu, Tongan, Turkish, Twi, Ukrainian, Ulithian, Urdu, Woleaian, or Yapese.

## II. LEGAL BASES FOR LANGUAGE ACCESS

Title VI of the Civil Rights Act of 1964 and its regulations (Title VI) provide that "[n]o

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<sup>1</sup> U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimates, SELECTED CSOCIAL CHARACTERISTICS IN THE UNITED STATES, *available at*

<http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>

<sup>2</sup> U.S. Census Bureau, 2014 American Community Survey 1-Year Estimates, PERCENT OF PEOPLE 5 YEARS AND OVER WHO SPEAK ENGLISH LESS THAN "VERY WELL" – United States – States; and Puerto Rico Universe: Population 4 years and over, *available at*

<http://factfinder.census.gov/gaces/tableservices/jsf/pages/productview.xhtml?src=bkmk>

<sup>3</sup> U.S. Census Bureau, Press Release: Most Children Younger Than Age 1 are Minorities, Census Bureau Reports (May 17, 2012), *available at*

<http://www.census.gov/newsroom/releases/archives/population/cb12-90.html>. Majority-minority states are those in which minority ethnic groups are numerically dominant.

<sup>4</sup> 2013 ACS 5-year estimates, Hawai'i: Language Spoken at Home, Tbl. §1601, *available at*

[http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_13\\_5YR\\_§1601&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_13_5YR_§1601&prodType=table)

person in the United States shall, on the ground of race, color, or national origin, be excluded from participating in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” Different treatment based upon a person’s inability to speak, read, write, or understand English may be national origin discrimination under Title VI. Title VI may be violated if:

- students are excluded from effective participation in school because of their inability to speak and understand the language of instruction;
- national-origin minority students are mis-assigned to classes for the mentally retarded because of their lack of English skills;
- programs for students whose English is less than proficient are not designed to teach them English as soon as possible, or if these programs operate as a dead-end track; or
- parents whose English is limited do not receive school notices and other information in a language they can understand.

On August 11, 2000, President William J. Clinton signed into law Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (“EO 13166”), requiring all agencies receiving federal funds to address the needs of persons who, due to their status as having limited English proficiency (LEP), cannot fully and equally participate in the agency’s programs and activities.<sup>5</sup> Whereas, Title VI creates obligations for recipients of federal funds to provide meaningful access for persons with LEP to federally conducted programs, EO 13166 creates obligations for federal agencies to do the same.<sup>6</sup>

On July 10, 2006, the Hawai`i State Legislature enacted Hawai`i’s Language Access Law, now HRS Ch. 321C, to further reduce language barriers that can preclude individuals who have LEP from meaningful access to services, programs, and activities offered by the State of Hawai`i or by state-funded programs. Hawai`i’s Language Access Law specifically requires each state agency or covered entity (entities that receive state funds) to establish a language access plan (LAP).<sup>7</sup> State agencies receiving federal financial assistance, including the DOE were required to file an initial LAP by July 1, 2007, and an updated LAP every two years thereafter.<sup>8</sup>

### III. LIMITED ENGLISH PROFICIENT POPULATIONS SERVED BY THE DOE

#### a. Students

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<sup>5</sup> Students who have LEP may also be referred to as English language learners, or ELL, or English learners, or EL, throughout the LAP.

<sup>6</sup> See, e.g., U.S. Dep’t of Justice, Memorandum to Heads of Federal Agencies, General Counsels and Civil Rights Heads re: Federal Government’s Renewed Commitment to Language Access Obligations under Executive Order 13166 (Feb. 17, 2011), *available at* [http://www.justice.gov/crt/about/cor/AG\\_021711\\_EO\\_13166\\_Memo\\_to\\_Agencies\\_with\\_Supplement.pdf](http://www.justice.gov/crt/about/cor/AG_021711_EO_13166_Memo_to_Agencies_with_Supplement.pdf).

<sup>7</sup> HRS § 321C-4.

<sup>8</sup> *Id.*

Part of the LEP population served by the DOE is students with limited English language proficiency. These students require English language development (ELD) support and targeted instruction. The DOE provides these students with supplementary instructional and acculturation activities. The statewide English Language Learner (ELL) Program ensures students with LEP (1) have access to educational opportunities by providing services that assist these students with the attainment of English language proficiency, (2) develop high levels of academic attainment in English, and (3) meet the same challenging State academic content and student achievement standards all students are expected to meet. Services to ELL Program students generally consist of English as a Second Language (ESL) type instruction and acculturation activities.

The ELL Program supports the DOE's mission to provide standards-based education through supplementary instructional and acculturation activities. Services provided through the ELL Program implement the requirements of Title VI and the Equal Educational Opportunities Act (EEOA) of 1974. With regard to students with limited English proficiency, Title VI and its regulations require that students are able to participate in, or benefit from, regular or special education instructional programs. Services to ELL Program students and Immigrant Children and Youth also implement the requirements of Title III. Title III requires ELL Program students attain English proficiency, and meet the same challenging academic standards all students are expected to meet.

b. Parents

Another LEP population served by the DOE is the LEP parents or legal guardians of students, who may or not be ELL Program students, and members of the public. The DOE strives to ensure parents or legal guardians understand the availability and type of programs and services available to students in a language that the parents or legal guardians understand, whether their child is an ELL Program student or otherwise. The DOE uses the four-factor analysis that was set forth in guidance from the Department of Justice to ensure meaningful access to LEP students and parents:

- (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the DOE;
- (2) The frequency with which LEP individuals come in contact with the DOE;
- (3) The nature and importance of the program, activity, or service or service provided by the DOE; and
- (4) The resources available to the DOE.

IV. **PROTOCOL FOR PROVIDING LANGUAGE SERVICES**

a. ELL Program

The DOE provides language services to LEP students through the ELL Program. The ELL Program strives to:

1. Provide meaningful access to educational opportunities and academic content by providing services that assist students with developing English language proficiency.
2. Support students in attaining the same State academic content and student achievement standards expected for all students.
3. Ensure students graduate with the language, knowledge, and skills to pursue post-secondary education and careers.
4. Develop an understanding of and appreciation for diverse cultures.
5. Engage parents and families in the education of their children.

Schools should strive to take the following steps to meet these goals:

**Step 1: Educational Approach.** Schools must select a sound educational approach for providing English language development and meaningful participation to content. In Hawaii, the World-Class Instruction and Design Assessment ELD Standards are required to be used in conjunction with state content standards and Common Core State Standards

**Step 2: Identification.** Schools are responsible for identifying all students potentially needing ELL services based upon the student's enrollment form and the eCSSS. If any one of the languages indicated (first, home or most used languages) is not English, a student is a potential ELL student.

**Step 3: Assessment.** Schools are responsible for assessing each identified potential ELP student for English proficiency, using the state approved initial English language proficiency assessment, the *WIDA Screener* in grades 1-12, and the *WIDA ACCESS for ELLs Placement Test (W-APT)* for students in Kindergarten.

**Step 4: Placement into ELL Program Services & Parent Notification.** Schools are responsible for providing its ELL students with a program of services consistent with its chosen educational approach. Parents must be notified of ELL program services within 30 calendar days from the start of the school year, or within 14 days, if students arrive after the start of the school year.

**Step 5: Staffing and Resources.** Schools are obligated to provide the necessary resources and qualified staffing to implement the educational approach selected, and must include personnel that are both highly qualified in content, AND knowledgeable in English language development for second language learners.

**Step 6: Transition from ELL Services.** Schools are responsible for implementing

state criteria for exiting an ELL student from the ELL Program into regular programs without ELL support based upon the annual English language proficiency (ELP) assessment, the *ACCESS for ELLs 2.0*. Students who function at the *Bridging* ELP level with an overall ELP score of 5.0 meet the exit criteria.

Step 7: Monitoring. Schools will ensure that students transitioning from the ELL program will participate meaningfully in the education program. Students are monitored for two full academic school years after meeting the ELL exit criteria.

Step 8: Program Evaluation. Schools will develop evaluation procedures to periodically evaluate and revise their ELL Program. To fulfill the previously mentioned Title VI and other requirements, schools may need to revise programs even if State, Complex, or School accountability measures related to ESSA do not require such change, e.g., if it is found that ELL Program students' needs are not being met. If any parent, legal guardian or member of the public has any questions about the ELL Program, more information and HIDOE contacts can be found on the [HIDOE Website](#)<sup>9</sup>

b. Parents, Legal Guardians and Members of the Public

Parents may be LEP even if their children are not identified as ELL. Schools must communicate information to LEP parents in a language they can understand about any program, service, or activity that is called to the attention of parents who are not proficient in English. This can be done through interpretive services or translation and includes, but is not limited to, information related to:

- Registration and enrollment in school and school programs
- ELL program
- Report cards
- Student discipline policies and procedures
- Special education and related services, and meetings to discuss special education
- Parent-teacher conferences
- Grievance procedures and notices of nondiscrimination
- Parent handbooks
- Gifted and talented programs
- Requests for parent permission for student participation in school activities

The DOE issues notice to students, parents and others that it does not discriminate on the basis of race, sex, age, color, national origin, religion, or disability in its programs and activities and provides equal access to designated youth groups.

In addition, schools provide the following statement and its translations in their front offices, on their websites, in a location where advising/counseling is provided by counselors, in their course registration materials for all diploma-track students, as well

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<sup>9</sup> HIDOE ELL Website: [goo.gl/3x2AB2](http://goo.gl/3x2AB2)

as any CTE-specific promotional materials:

If you have difficulty understanding English, you have the right to receive language assistance at no cost to you. Please contact your school's principal for more information.

Schools must respond to a parent's request for language assistance and remember that parents can be limited English proficient even if their child is proficient in English.

Schools must develop and implement a process for determining whether parents or legal guardians are limited English proficient and what their language needs are. The process should identify all LEP parents, including parents or legal guardians of children who are proficient in English and parents and legal guardians whose primary language is not a common language. Such efforts may include home language surveys, interaction between parents and staff, and taking into account that LEP students also may have LEP parents. Generally, schools should take a parent at his or her word that he or she needs language assistance. Schools should not administer tests to determine a parent's language proficiency.

All four domains of language proficiency—speaking, reading, writing, and comprehending—are significant to understanding the need for services and assistance and what types of services and/or assistance may be appropriate. Whether a parent is considered LEP may vary with the topic, service, benefit or encounter at issue. That is, LEP status may be context-specific. For example, a parent may have sufficient English language skills to communicate basic information, but not have sufficient skills to communicate the detailed specific information that may be need in a particular context, such as a disciplinary hearing or an individualized education program (IEP).

Schools must provide translation or interpretation from appropriate and competent individuals and may not rely on or ask students, siblings, friends, or untrained school staff to translate or interpret for parents.<sup>10</sup> A list of resources for interpretation and translation services is attached as Attachment 1. Language assistance must be free and provided by appropriate and competent staff or through appropriate and competent outside resources. It is not sufficient for the staff merely to be bilingual.

The Hawaii State Judiciary has a list of interpreters that can be used as a resource. See attached. In addition, Hawai'i's Office of Language Access has videos on its website illustrating how interpreters should be used. See <http://health.hawaii.gov/ola/for-agencies/>. In addition, the CRCO website has a link for

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<sup>10</sup> Translation or interpretation that is required under Office of Civil Rights statutes may not be paid for with Title III funds (from the OCR May 25, 1970 Memorandum). The Office of Civil Rights statutes predate Title III. Title I translation or interpretation also cannot be paid with Title III funds due to Supplement, Not Supplant [Sec.3115 (g)].

all documents that are translated into the following 13 languages:

- Hawaiian
- Samoan
- Ilokano
- Tagalog
- Spanish
- Tongan
- Chuukese
- Vietnamese
- Chinese (Mandarin)
- Chinese (Cantonese)
- Korean
- Japanese
- Marshallese

For questions relating to language access for parents and/or legal guardians of students, parents, students or school administrators, contact Aaron Oandasan at the Civil Rights Compliance Office at 586-3296.

#### V. DESIGNATION OF THE DOE LANGUAGE ACCESS COORDINATOR

The Civil Rights Compliance Office (CRCO) is the designated Language Access Coordinator for the DOE and is responsible for overseeing implementation and evaluation of the LAP. Any curriculum-related questions relating to the ELL or other instructional programs should be directed to the Office of Curriculum, Instruction and Student Support (OCISS). CRCO will also be responsible for revising the LAP, as necessary; responding to inquiries/comments/complaints regarding the LAP and its implementation; and training DOE staff on the LAP.

#### VI. MONITORING AND UPDATING THE PLAN

To ensure continual improvement in the area of providing educational opportunities for ELL students, in a manner that is culturally and linguistically appropriate, the DOE's Language Access Coordinators will monitor provisions of language access services for persons with LEP and update the LAP every two years.