
Auditor's Summary

Audit of the Office of Language Access

Report No. 22-10

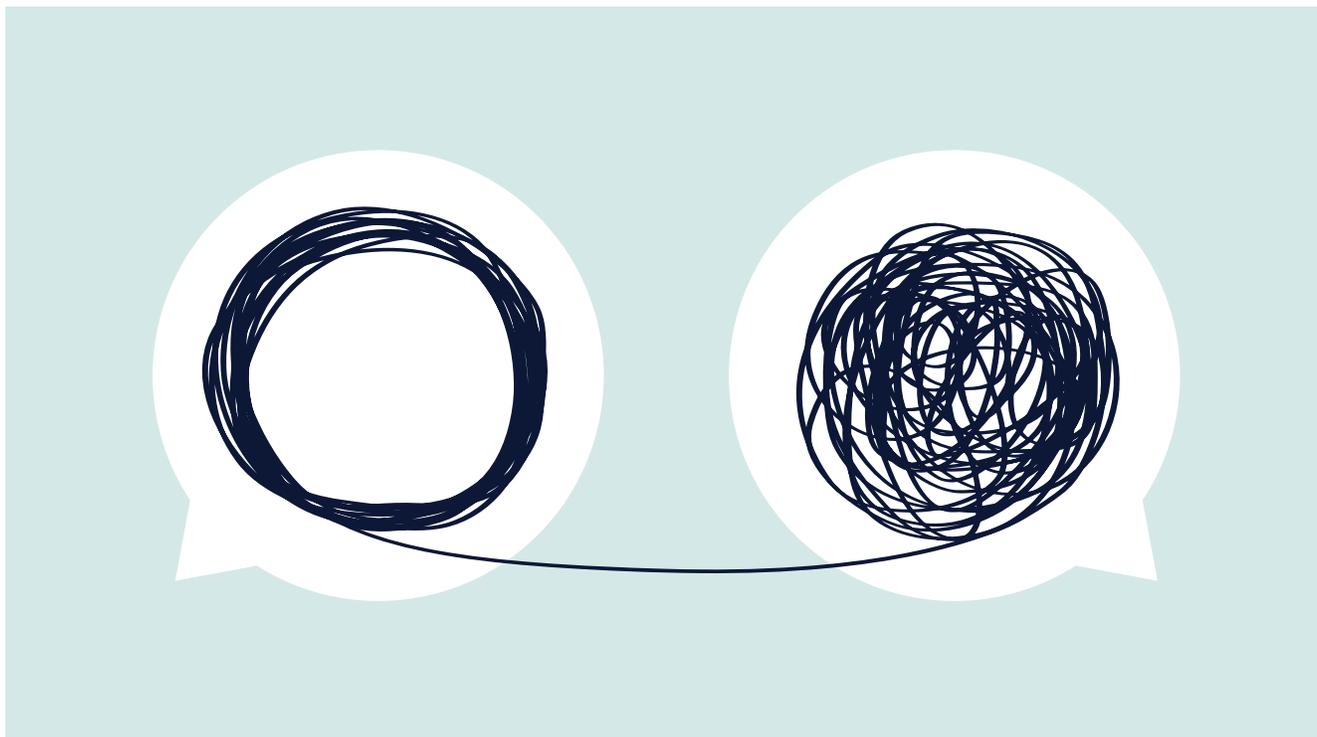


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ACCORDING TO THE 2020 State of Hawaii Data Book, more than 158,000 individuals residing in Hawai'i are limited English proficient. For this population, interpreters, translators, and other language access-related services may be needed to help navigate government activities such as court proceedings, as well as to understand rights and responsibilities related to public housing, driver's license examinations, voting procedures, unemployment benefits, and public health services associated with the COVID-19 pandemic.

In 2006, the Legislature established the Office of Language Access (OLA) to address the needs of limited English proficient individuals in Hawai'i and to ensure they have meaningful access to state services, programs, and activities. OLA is responsible for, among other things, ensuring compliance with language access laws by all state offices, including those attached to the legislative and judicial branches of state government, and organizations that receive state funding, which the law refers to as "covered entities."

OLA is responsible for providing training and technical assistance to agencies in developing and implementing language access plans; educating the public about their language access rights; coordinating language access efforts

Of the 26 plans on the website as of October 2021, we found only one (Department of Budget and Finance) included a memo indicating that the plan had been reviewed and approved by OLA; however, the memo was nearly 15 years old.

among various organizations and stakeholders; and administering a language access resource center to address the need for qualified language interpreters and translators. OLA is also required to review and monitor each agency's language access plan to ensure it provides reasonable assurance that limited English proficient persons will have meaningful access to the services provided by the state agency.

What we found

We found that OLA has done little of consequence to address the language access needs of limited English proficient persons or to ensure meaningful access to services, programs, and activities offered by state agencies and covered entities. OLA is not performing obligations required by its enabling statute, Chapter 321C, Hawai'i Revised Statutes (HRS), that the Legislature clearly believed were necessary to address the language access needs of the state's limited English proficient population. For example, OLA does not "provide oversight and central coordination to state agencies in their implementation of language access requirements" or "provide technical assistance to covered entities in their implementation" of the law.

Instead, we found an agency whose efforts to review and monitor language access plans, which should ensure that agencies have a process through which they will provide people who are limited English proficient meaningful access to services, programs, and activities, is nothing more than a paper exercise. When it created OLA, the Legislature delegated its policymaking authority to OLA, requiring the agency to promulgate administrative rules to provide the specific direction necessary to ensure meaningful access. Because OLA has not adopted administrative rules to, among other things, empower itself with the authority to approve or reject an agency's language access plan, agencies can ignore OLA's comments and recommendations about their respective plans – which our audit found is what agencies generally do. As a result, OLA characterizes its reviews of language access plans as "feedback" that it "hopes" agencies will take into account in the next update of their language access plans.

More akin to comments, these "reviews" do little – if anything – to ensure plans comply with the law. And, we found OLA has posted agencies' language access plans that often are nothing more than a verbatim recitation of the factors listed in the statute that agencies must consider in developing their respective plans. Moreover, OLA posts language access plans "as is," without any accompanying information. Posting these plans without any indication that they are current or have been approved by OLA provides little, if any, assurance that an agency has a reasonable plan to address the language access needs of limited English proficient persons who seek access to the agency's services, programs, or activities.

In addition, OLA's Language Access Resource Center (LARC) is required by statute to maintain a publicly available roster of language interpreters and translators that includes each individual's qualifications and credentials based on OLA guidelines and in consultation with the Language Access Advisory Council.

While OLA does maintain a roster of language interpreters and translators on its website, that roster does not include any OLA-approved qualifications and credentials as the statute directs. In fact, we found that applicants are not required to show proof of their qualifications and competency before they are added to the roster.

Why did these problems occur?

OLA's Executive Director describes Chapter 321C, HRS, as a "law without teeth." He points out that the law does not specifically authorize OLA to approve or reject agencies' language access plans and does not require agencies to address recommendations that may arise from OLA's review of those plans. However, Chapter 321C requires OLA to establish and adopt administrative rules, a power the Legislature conferred to OLA to provide the specific direction to agencies and covered entities about their language access plans as well as the processes by which OLA intended to ensure limited English proficient persons have meaningful access to services. OLA had started the rulemaking process sometime in 2016 – a decade after it was created – but the effort ground to a halt in 2018.

Through administrative rules, OLA could give the language access law "teeth." For instance, OLA should, among other things, establish its expectation with respect to the language access plans agencies must submit, including the requirement that those plans be approved by OLA; OLA should establish requirements that must be met for an agency's language access plan to be posted on OLA or agency websites; OLA should create a process through which persons who are limited English proficient can obtain OLA's help to obtain language assistance, as contemplated by the statute; and OLA should establish the criteria interpreters and translators must meet to be included on LARC's roster.

Why do these problems matter?

Almost 16 years after it was established, OLA remains a partially formed organization, conducting its day-to-day operations without having first established and clarified the organization's direction, duties, and authority. The result: many activities that are nothing more than paper exercises, with questionable purpose and effectiveness and little connection to OLA's statutory role. In addition, we found LARC has not become the "centralized resource" that the Legislature determined was needed to grow the pool of language interpreters and translators and address the needs of the state's limited English proficient population. OLA has done little to verify that the self-described interpreters and translators on its roster are qualified to provide competent and accurate services. It has not even defined the terms "qualified," "competent," and "certified" as they relate to the language interpreters and translators it hopes to recruit and retain.

In short, OLA is not the agency that the Legislature intended to address the language access needs of Hawai'i's limited English proficient population.