



Government of the District of Columbia  
Office of Human Rights

The Implementation of the D.C. Language Access  
Act of 2004:

A Compliance Review  
(Fiscal Years 2005-2007)

D.C. Office of Human Rights  
441 4<sup>th</sup> Street, N.W., Suite 570N  
Washington, D.C. 20001  
(202) 727-4559  
[www.ohr.dc.gov](http://www.ohr.dc.gov)

# Executive Summary

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## Introduction

In 1998, the Washington Metropolitan Area emerged as one of the top 10 “immigrant-receiving” metropolitan areas in the nation, ranked 5<sup>th</sup> to Miami, Chicago, Los Angeles, and New York City.<sup>1</sup> In 2000, the U.S. Census reported that 12.9% of the District’s resident population was foreign born and 7.1% of the total resident population was either limited- or non-English proficient (LEP/NEP) speaking Spanish, French, Chinese, Vietnamese, Amharic, and Korean as its primary languages.<sup>2</sup> The District of Columbia government responded to this emerging need by enacting the D.C. Language Access Act (LAA) of 2004 on April 21, 2004. The purpose of the LAA is to ensure that “greater access and participation in public services, programs, and activities” is being provided to LEP/NEP residents of the District of Columbia.<sup>3</sup> The LAA defines *access or participate* as “to be informed of, participate in, and benefit from public services, programs, and activities offered by a covered entity **at a level equal to English proficient individuals.**” Hence, District agencies, departments, and programs that render services directly to the public are required by law to provide meaningful access to all constituents regardless of language spoken.

Presently, there are 25 District agencies identified by name in the LAA as “covered entities with major public contact.” These agencies must account for their implementation of the law’s mandates by establishing and executing language access plans on a recurring two-year basis.<sup>4</sup> While the Office of Human Rights (OHR) is charged with overseeing the implementation of the LAA, limited resources have proven a barrier to effective monitoring of agencies’ compliance with all LAA mandates. To normalize this, OHR has developed a reporting system under which the agencies “self” report quarterly on the progress of their plans. OHR is cognizant of the fact that standardizing this process for agencies whose missions and functions vastly vary will only produce minimal and/or a certain class of results. This report seeks to evaluate the District’s current state of compliance with the LAA since its inception and as OHR is able to assess it.

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<sup>1</sup> Singer, Audrey and Samantha Friedman, Ivan Cheung, and Marie Price. “The World in A Zip Code: Greater Washington, D.C. as a New Region of Immigration.” The Brookings Institution. (April 2001)

<sup>2</sup> Singer, Audrey and Jill H. Wilson. “Polyglot Washington: Language Needs and Abilities in the Nation’s Capitol.” The Brookings Institution. (June 2004). While the District does not have a substantial monolingual Korean resident population, it does have a substantial monolingual Korean business population.

<sup>3</sup> D.C. Law 15-167, D.C. Official Code § 2-193 *et. seq.*

<sup>4</sup> DOH, DHS, DOES, MPD, DCPS, Office of Planning, FEMS, OHR, DHCD, DMH, DMV, CFSA, ABRA, DCRA, DPR, Office on Aging, DCPL, DCHR, OCP, DOC, DPW, OTR, DCHA, HSEMA, and OPC.

# Compliance

For the purpose of this report *compliance* will be defined as “the observance of official requirements.”<sup>5</sup> The caveat to this definition is relatively evident: an agency can observe a legal requirement at face value without effectuating change and change is the intent of the LAA. Nevertheless, agencies have made strides to comply with the LAA and OHR assesses **the District to be in partial compliance with the law.**

Mandates with which agencies are required to comply:

Mandate 1: To provide oral languages services. In doing so, agencies are required to update databases and tracking applications to contain fields that capture “language” information of customers in order to determine the type of oral language services needed. Per the Act, this should take place during the fiscal year that an agency is “phased” into implementation. Additionally, once agencies determine the type of oral language services needed they are to hire bilingual personnel into existing budgeted vacant public contact positions (PCPs) should the agency require additional personnel to meet this requirement.

Mandate 2: To provide written language services. In doing so, agencies are to provide translations of vital documents into any non-English language spoken by a LEP/NEP population that constitutes 3% or 500 individuals or the population served or encountered.

Mandate 3: Additional legislative obligations: (1) Establish a biennial language access plan (BLAP); (2) Identify a Language Access Coordinator; (3) Conduct one public meeting per fiscal year; and (4) Conduct outreach to LEP/NEP communities.

Programmatic Requirement: (1) Conduct one cultural competency training per fiscal year to, at minimum, all staff that fill a PCP; (2) Conduct Language Line Services (LLS) training to, at minimum, all staff that fill a PCP; (3) Create an agency glossary of terms; (4) Conduct recruitment activities geared toward hiring bilingual staff; and (5) Submit four quarterly reports for each year of a BLAP.<sup>6</sup>

Based on the review of available material and observance of the LAA’s mandates, each agency was assigned one of three compliance ratings:

- Full: To receive an overall “full” compliance rating an agency must meet **all** program requirements and LAA mandates and provide justification. An agency can receive a “full” compliance rating for one or more individual mandates; however, if an agency, for example, receives a majority of “partial” compliance ratings on individual mandates the agency would be rated as being in “partial” compliance overall.

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<sup>5</sup> “compliance.” *Merriam-Webster’s Dictionary of Law*. Merriam-Webster, Inc. 28 Oct. 2007. <FindLaw.com <http://dictionary.lp.findlaw.com>>.

<sup>6</sup> The submission of untimely and incomplete reports remains a concern, which may affect how agencies are evaluated in this report.

- Partial: To receive an overall “partial” compliance rating an agency must be able to substantiate through its reports that a system is in place to comply with a particular mandate/requirement. What distinguishes a “partial” compliance rating from a “full” compliance rating is complete adherence to program requirements and/or the legislative mandates. For example, an agency may report that it has 10 vital documents of which only five are translated. If no justification is provided as to why the documents had not been translated throughout the course of one fiscal year, the agency would receive a “partial” rating.
- Non-compliance: To receive an overall “non-compliance” rating an agency must have met little to no legislative mandates or program requirements. An agency can receive a rating of “non-compliance” for one individual mandate and/or requirement and “partial” or “full” for others; however, in this instance the agency would not receive an overall rating higher than “partial.”

## Results at a Glance

### Compliance Results

General compliance results:

- 100% of agencies submitted their requisite BLAPs.
- 92% of agencies identified a Language Access Coordinator.<sup>7</sup>
- 84% of agencies submitted all requisite quarterly reports.<sup>8</sup>

Compliance results on mandates and programmatic requirements:

Mandate 1:

- 44% of agencies received a rating of “full” compliance
- 56% of agencies received a rating of “partial” compliance
- 0% of agencies received a rating of “non-compliance”

Mandate 2:

- 44% of agencies received a rating of “full” compliance
- 52% of agencies received a rating of “partial” compliance
- 4% of agencies received a rating of “non-compliance”

Mandate 3:

- 28% of agencies received a rating of “full” compliance
- 72% of agencies received a rating of “partial” compliance
- 0% of agencies received a rating of “non-compliance”

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<sup>7</sup> OPC and DCPS are presently without an identified Language Access Coordinator.

<sup>8</sup> Quarterly reports are missing from DHCD, DCRA, MPD, and DCHA.

### Programmatic Requirements:

- 16% of agencies received a rating of “full” compliance
- 80% of agencies received a rating of “partial” compliance
- 4% of agencies received a rating of “non-compliance”

Overall Compliance Rating: Partial

### Disaggregated Data:

\*These statistics are derived strictly from data collected and reported by agencies. Not all agencies will be represented in these numbers due to incomplete information in their individual reports.

% of bilingual staff who fill a PCP:<sup>9</sup>

- 7.6%<sup>10</sup>

Total (approximate) number of vital documents translated:

- 486<sup>11</sup>

Total (approximate) number of LEP/NEP individuals served disaggregated by language:<sup>12</sup>

- Amharic speakers: 2,878
- Chinese speakers: 1,822
- French speakers: 989
- Korean speakers: 172
- Spanish speakers: 28,667
- Vietnamese speakers: 656

## Policy Recommendations

The findings from this report reveal that inconsistencies exist when implementing various provisions of the LAA. Other than MPD, District agencies cannot provide accurate data on existing bilingual staff; it is still unclear as to how agencies identify a document as vital and what happens to that document once it has been translated; and proper assessment of LEP/NEP constituents’ language needs still remains a concern. To better assist OHR in its role of enforcer and monitor and to further advance the District in providing greater access to services to those residents who have a limited or no capability of communicating in the English language, OHR recommends the following:

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<sup>9</sup> At present, the District does not have a formal method of assessing the foreign language proficiency of bilingual staff who presently “self-identify” as bilingual with the exception of the existing mechanism at the D.C. Metropolitan Police Department (MPD). Thus, this data may not be statistically valid.

<sup>10</sup> This percentage only includes data from the following agencies: DOH, OHR, DMH, DMV, CFSA, DOES, MPD, OHR, ABRA, DCRA, HSEMA, and OPC. Remaining agencies did not disaggregate their total of PCPs from their total number of FTE.

<sup>11</sup> This total does not include data from DCPS and DCRA.

<sup>12</sup> These amounts do not include data from OP, DMH, ABRA, DCOA, OTR, DCHA, and HSEMA.

- I. Establish a coordinated contracting process to select, through a central purchase agreement, qualified vendors of translation and interpretation services in the open market. This step will increase the quality of translations contracted out by District government by having all covered entities chose only from a list of pre-qualified vendors.
- II. Provide a small local funding increase to continue what has become a stalled implementation of quality control testing for translations conducted by outside vendors. Quality control testing is currently performed by the Office of Latino Affairs and the Office of Asian and Pacific Islander Affairs.
- III. Increase in frequency and size the customer service foreign language quality assurance testing presently conducted by the Office of Unified Communications in order to perform greater and more accurate testing. This may require increased resources for the Office of Customer Service Operations.
- IV. Define the general functions of a “public contact position” so as to better ascertain the need for or target such vacancies when they arise for bilingual hires.
- V. Create an inventory of positions for all covered entities using this report’s data as a baseline. Once agencies identify their oral language services needs, DCHR should support the classification or reclassification of positions deemed “bilingual preferred.”
- VI. Establish an assessment of bilingual proficiency when recruiting for “bilingual preferred” positions. Candidates should be “certified” and/or “qualified” in a language prior to being hired to fill a position that will actively require the use of a foreign language, and a monetary incentive for qualified bilingual staff who fill these positions should be considered.
- VII. Each District agency in conjunction with the OHR should proactively develop policies on serving LEP constituents.
- VIII. Allocate sufficient resources to OHR so that it can accurately review, monitor, and engage with agencies at the level of an enforcement agency.

## Renewed Commitment

Since January 2007, Mayor Adrian M. Fenty has renewed his commitment and that of his administration to further advance the language access agenda. Mayor Fenty recognizes that more could have been achieved since the LAA was enacted into law. He has instructed all agency directors of covered entities to review their individual standings derived from this report, and take action to meet greater compliance next year. Since January 2007, some relevant steps with regards to the LAA include:

- I. The Director of OHR and Language Access Program Director have met with the majority of newly appointed directors to explain the requirements of the LAA and present an overall situation of their particular agencies.
- II. Rules and regulations of the LAA have been completed.

- III. The first official complaint alleging a violation of the LAA has been completed.
- IV. Mayor Fenty has made bilingual hiring one of his top initial priorities, and the first District-wide bilingual job fair was successfully conducted during the summer of 2007.
- V. Mayor Fenty and City Administrator Tangherlini have reviewed the results of customer service testing made in other languages in the early months of 2007. They have instructed OUC and OHR to continue to work together and remind agency directors to improve their results next time around.
- VI. The first community-centered awareness and education campaign on language access was launched in the District of Columbia by Mayor Fenty. This campaign is geared toward raising the understanding of the rights Limited English residents have under the LAA when seeking a District government program or services.
- VII. A new procedure to investigate complaints of violation to the LAA has been implemented at OHR. Constituents can file a claim in person or electronically through the OHR's website.
- VIII. OHR has set aside funding from its FY2008 budget to design a Diversity and Cultural Competency training program with nationally-recognized standards that will be offered to all DC government employees starting next year. DCHR is working on the same direction through the Center for Workforce Development.
- IX. OHR continues to make presentations on the LAA and the District's model at conferences and seminars regionally and nationally. We also continue providing technical assistance to other entities in the region wanting to adopt a similar model, such as WMATA.