

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Alex Lee, Chair

SB 1078 (Min) – As Amended May 20, 2024

SENATE VOTE: 36-0

SUBJECT: Language access

SUMMARY: Establishes the Office of Language Access (OLA) within the California Health and Human Services Agency (CalHHS) to lead the development, monitoring, and updating of department Language Access Plans and establish a Language Access Advisory Workgroup. Specifically, **this bill:**

- 1) Establishes the OLA within CalHHS to provide critical oversight, accountability, and coordination across various state departments and agencies to ensure individuals with limited English proficiency (LEP) have meaningful access to government programs and services.
- 2) Requires the OLA to do all of the following:
 - a) Lead the development, monitoring, and periodic updating of Language Access Plans within CalHHS to include both of the following:
 - i) A Language Access Plan for each department and office within CalHHS, as specified in 5) below; and,
 - ii) The CalHHS' Language Access Plan Guidance Document, as specified in 5) below.
 - b) Coordinate with the language access coordinators from the various departments and offices within CalHHS to implement each departments' and offices' Language Access Plan;
 - c) Increase the provision of language assistance services, including translation and interpreter services, through various options, which may include, but are not limited to, hiring bilingual staff and contracting with community-based organizations and third-party vendors;
 - d) Ensure each Language Access Plan, as specified in 5) below, includes all of the following:
 - i) Methods to identify individuals with LEP who require language assistance, including both of the following:
 - 1) A demographic assessment of a department's service population; and,
 - 2) An effective system of recording and utilizing spoken, sign, or written language preferences.
 - ii) Language assistance measures and information about the ways that language assistance will be provided, including all of the following:

- 1) The types of services available, including both of the following:
 - A) How a department or office will provide free sign language interpretation and oral interpretation services in a language, upon request, for all public contacts, including sign translation of vital documents pursuant to CalHHS' Language Access Plan Guidance; and,
 - B) How the department or office will use the safe harbor provisions, as described, to determine the languages that a vital document shall be translated into.
- 2) How staff can obtain these services;
- 3) How to respond to an individual with LEP, including via telephone, written communication, and inperson contact; and,
- 4) Ensuring the competency of interpreters and translation services;
- iii) Training for staff to ensure they know about LEP policies and procedures and ensuring staff who have contact with the public are trained to work effectively with inperson, video, and telephone interpreters;
- iv) Notice for individuals with LEP containing the services that are available for an individual with LEP, or to the extent that a services area exists, who resides in its service area and are eligible for services;
- v) A mechanism to do both of the following:
 - 1) Monitor the implementation of the plan;
 - 2) Update the plan every two years, which shall include whether new documents, programs, services and activities shall be made accessible for individuals with LEP. Permits, when reviewing a plan for updates, the OLA to also consider all of the following:
 - A) Changed demographics;
 - B) An analysis of internal and external data;
 - C) Responses to new and unexpected language needs;
 - D) Complaints received and how they are resolved;
 - E) Assessment and measures of client satisfaction; and,
 - F) Capacity-building efforts regarding funding, staffing, and training.
- e) Collect data from the various departments and offices within CalHHS to create a report, which includes, but is not limited to, all of the information specified in 4) below;

- f) Ensure a document is translated if an individual with LEP submits a written request to CalHHS, or any of its departments or offices, that the document be translated into the individuals preferred language; and,
 - g) Investigate the number of language access complaints received by each department and office within CalHHS, as well as by other relevant agencies that may receive a language access complaint regarding CalHHS or a department or office within CalHHS.
- 3) Requires the OLA to maintain a language access website that contains all of the following:
- a) A publicly available list of translated CalHHS materials and forms;
 - b) A directory of qualified interpreters, translators, and other similar resources within CalHHS;
 - c) Every current CalHHS Language Access Plan, every update to those plans, and all corrective action plans;
 - d) Notices, instructions, and information for the public regarding both of the following:
 - i) An individual's language access rights;
 - ii) How to submit a complaint if a department or office within CalHHS has failed to provide language services, which may include, but is not limited to, filing a complaint with any of the following:
 - 1) A managed care plan;
 - 2) A health care provider;
 - 3) CalHHS;
 - 4) The Department of Health Care Services;
 - 5) The Department of Managed Health Care (DMHC);
 - 6) The Department of Insurance;
 - 7) The Civil Rights Department; and,
 - 8) The United States (U.S.) Department of Health and Human Services' Office for Civil Rights.
- 4) Requires, commencing November 1, 2026, and every other year thereafter, the OLA to submit a report for the prior fiscal year to the Legislature and the relevant policy committees containing the information in a) 1) below. Requires the report to provide information by fiscal year and, at a minimum, contain all of the following:
- a) Challenges encountered while implementing the various Language Access Plans;
 - b) The OLA's efforts to address the problems it encountered, if any;

- c) Lessons learned and best practices;
- d) The number and percentage of individuals with LEP who use each department's or office's services, listed by language other than English, in comparison to the estimated population with LEP who are eligible for the department's or office's services including a description of the methodology or data collection system used to make this determination;
- e) The number of multilingual employees in public contact positions that includes all of the following for each individual:
 - i) Job title;
 - ii) Qualifications for bilingual or multilingual capacity;
 - iii) Office location; and,
 - iv) The language or languages they speak in addition to English;
- f) The name and contact information for each language access coordinator;
- g) A list of ongoing employee development and training strategies to maintain well-trained multilingual employees and general staff, including a description of both of the following:
 - i) Quality control protocols for multilingual employees;
 - ii) Language service protocols for individuals with LEP who are in crisis situations;
- h) A list of goals for the upcoming year and, except for the first year of the report, an assessment of each department's and office's success at meeting the prior year's goals;
- i) The number of translation requests received and provided, the languages used to translate materials, and which materials were translated and completed during the prior fiscal year;
- j) The number of interpretation requests received and the number of interpretation services provided, by language, including services provided in person, by video, and via telephone, for services provided by department and office staff, as well as contracted vendors; and,
- k) The number of language access complaints received by each department or office within CalHHS, or other relevant agency that may receive a language access complaint, including, but not limited to, the Civil Rights Department and the U.S. Department of Health and Human Services' Office of Civil Rights. This data shall include all of the following:
 - i) The total number of complaints received;
 - ii) The number of complaints investigated;
 - iii) The number of complaints resolved; and,

- iv) Summaries of the investigation results and resolution agreements; and,
 - v) The number of staff, total dollar amount, and breakdown of annual expenditures, including services provided by vendors, that each department and office spent on language access services.
- 5) Requires each department and office within CalHHS to do both of the following:
- a) Develop a Language Access Plan, as described in 2) above; and,
 - b) Delegate a coordinator to work with OLA to achieve the purpose of these provisions related to language access.
- 6) Requires CalHHS to develop a Language Access Plan Guidance Document to support its various departments and offices in their development of a Language Access Plan.
- 7) Requires CalHHS to do all of the following:
- a) Develop a corrective action plan for a department or office that fails to implement and achieve the goals set forth in its Language Access Plan. Requires a corrective action plan to include both of the following:
 - i) A plan to address any deficiencies; and,
 - ii) Resolutions to improve language access.
 - b) Make these corrective action plans publicly available on its website; and,
 - c) Submit annual compliance reports to the OLA regarding the progress its departments and offices have made with their Language Access Plans and any corrective action plans.
- 8) Requires, commencing January 1, 2025, CalHHS to commence the Language Access Advisory Workgroup.
- 9) Requires the workgroup to meet at least quarterly until January 1, 2027, annually until January 1, 2035, and as needed thereafter to share the progress of the various Language Access Plans, address relevant issues, and obtain community input;
- 10) Requires the workgroup to comprise a minimum of five, but no more than 10, individuals who have LEP or who have direct experience working with individuals who have LEP.
- 11) Requires CalHHS to make a good faith effort to ensure the workgroup is diverse in the following ways:
- a) Workgroup members represent diverse language groups that are not represented in the five threshold languages; and,
 - b) Workgroup members have diverse geographic representation.

- 12) Makes legislative findings and declarations that this act aligns with Executive Order No. N-16-22, which committed to strengthening equity and language access, and CalHHS' Language Access Plan Guidance.

EXISTING LAW:

- 1) Establishes CalHHS, which consists of the following departments and offices (hereinafter "departments"): Aging, Child Support Services, Community Services and Development, Developmental Services, Health Care Access and Information, Health Care Services, DMHC, Public Health (CDPH), Rehabilitation, Social Services (CDSS), State Hospitals, the Center for Data Insights and Innovation, the Emergency Medical Services Authority, the Office of Technology and Solutions Integration, the Office of Law Enforcement Support, the Office of the Surgeon General, the Office of Youth and Community Restoration, and the State Council on Developmental Disabilities. (Government Code [GOV] § 12803)
- 2) Establishes the Dymally-Alatorre Bilingual Services Act to provide for effective communication between all levels of government in California and the people of the state who are prevented from utilizing public services due to language barriers. (GOV § 7290 *et seq.*)
- 3) Requires every local public agency, as defined, serving a substantial number of non-English-speaking people to employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to assist those in such positions to ensure provision of information and services in the language of the non-English-speaking person. (GOV § 7293)
- 4) Requires state agencies involved in providing information or services to the public, where a substantial portion is non-English-speaking (at least 5%), to provide information and services to the public in the language of the non-English-speaking person. (GOV § 7295; 7296.2)
- 5) Requires a state agency subject to the Act to translate and make accessible on the homepage of its website, forms, and processes for submitting complaints of alleged violations of this Act by July 1, 2015. (GOV § 7299.3)
- 6) Requires, every odd-numbered year, each agency that served a substantial number of non-English speaking people to develop an implementation plan that provides a detailed description of how the agency plans to address any deficiencies in meeting the requirements of this Act, including, but not limited to, failure to translate written materials or employ sufficient numbers of qualified bilingual employees in public contact positions at statewide and local offices, the proposed actions to be taken to address the deficiencies, and the proposed dates by when the deficiencies will be remedied. (GOV § 7299.4(d))

FISCAL EFFECT: According to the Senate Appropriations Committee on April 29, 2024:

- The CalHHS estimates ongoing General Fund costs, likely low millions, for administration. This includes costs for staffing resources and vendor contracts.
- The Civil Rights Department (CRD) indicates unknown potential costs, likely hundreds of thousands, to investigate, mediate, and prosecute additional complaints related to language access, as well as for state administration to provide data on language access complaints to CalHHS.

COMMENTS:

Background: *Limited English Proficiency in California.* California is one of the most linguistically diverse states in the U.S., with a significant proportion of its population speaking languages other than English at home. According to data from the Survey by the Census, about 44% of California residents older than five years of age speak a language other than English at home and 17.1% speak English less than very well. Specifically, 28.2% speak only Spanish at home, and of this group, 38.2% speak English less than very well; 9.9% speak a language from Asia and the Pacific Islands such as Chinese, Tagalog, Vietnamese, and Korean, and 4.6% speak English less than very well; and, 1.1% speak other languages (200+), including over 100 indigenous languages.

California has long been a destination for immigrants from around the world seeking economic opportunities, refuge, and reunification with family members. Accordingly, many immigrant communities from Latin America, Asia, Europe, and other regions have brought this multitude of languages and cultures to California, and have established deep roots over multiple generations, maintaining their native languages and cultural practices while also integrating into broader American society.

Federal and State Anti-Discrimination Law. Title VI of the federal Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in programs receiving federal assistance. The U.S. Supreme Court case *Lau v. Nichols* (1974) clarified that national origin discrimination includes a person's LEP. President Clinton issued Executive Order 13166 in 2000 further requiring that organizations receiving federal assistance must ensure meaningful access to their programs for individuals with LEP.

Existing state law establishes the Dymally-Alatorre Bilingual Services Act to provide for effective communication between all levels of government in California and the people of the state who struggle to utilize public assistance programs due to language barriers. The Act requires state agencies involved in providing information or services to the public to have bilingual staff and translated documents available when the office services an area where more than 5% of the population speaks a non-English language. For example, the Department of Motor Vehicles' offices that service Koreatown, Los Angeles ensure accessibility for Spanish and Korean by providing translated documents and employing bilingual staff.

On the federal level, Volume 67 of the Federal Register outlines a "safe harbor" provision. It stipulates that if an agency provides written translations of vital documents for each eligible LEP language group that makes up 5% or 1,000 persons, whichever is less, of the total population eligible to be served or likely to be affected, then such actions will be considered strong evidence of compliance with the recipient's written translation obligations. *This bill* requires departments and offices within CalHHS to consider how they will use safe harbor provisions to determine the languages that a vital document is to be translated into.

Impacts of Language Barriers. Despite the requirements by federal and state law, language barriers for individuals with LEP continue to persist when accessing government services. For example, an article by KQED highlighted how poor language accessibility was at the California Division of Occupational Safety and Health with only one bilingual safety inspector for Cantonese and Vietnamese out of 214 inspectors, and none in any other Asian and Pacific Islander language. LEP CalFresh applicants report challenges to participation due to language barriers.

Research also shows a relationship between LEP and health disparities; LEP individuals are less likely to have health insurance, visit a physician, or attain high-quality care compared to English proficient speakers. LEP individuals are also less likely to receive care, indicated by fewer physician visits and fewer preventive services, and more likely to receive poorer quality of care due to inadequate communication. For instance, according to the 2021 CalMatters article, “*COVID misinformation plagues California’s Indigenous speakers,*” during the height of the COVID-19 pandemic, Indigenous communities from Latin America reported not having access to timely and reliable information to access vaccines in California due to language barriers, which can mean life or death for many of these Indigenous communities.

Language Access Policy. In 2021, Governor Newsom introduced equity-centered programs as part of the 2021-22 budget, which included a Language Access Policy Framework. This initiative allocated one-time funding of \$20 million for the development and implementation of a comprehensive language access policy and protocol framework, addressing legal compliance, operational aspects of translation and interpretation, bilingual staff requirements, and community engagement. The framework aimed to establish consistent language access standards across all programs and services, building on the efforts of an internal Language Access Workgroup established in 2020 to enhance language assistance services within CalHHS departments.

On September 13, 2022, Governor Newsom issued Executive Order N-16-22 citing the state’s investment to improve language access across health and human services programs. The Executive Order also ordered CalHHS to develop recommendations to improve language and communications access to state government services and programs by September 30, 2023, among other things.

On May 22, 2023, CalHHS adopted a Language Access Policy, and issued a memo to department directors outlining policies regarding department-level Language Access Plans with the following requirements, regardless of the funding source of the department:

- Align with the U.S. Department of Justice’s 2022 guidance for agencies concerning Title VI’s prohibition against national origin discrimination affecting LEP persons and any relevant federal funding agency;
- Include an analysis for determining reasonable steps to ensure meaningful access for persons with LEP, considering the number and frequency of contact with LEP individuals, the nature and importance of the program or service, and the available resources and costs of translation services;
- Identify and address specific language access legal requirements for that department and its programs, and evaluate whether the Title VI analysis necessitates additional language assistance beyond state law or program requirements; and,
- Departments were required to submit their draft plans to CalHHS by December 1, 2023, and review and update these plans as needed every two years.

The CalHHS Language Access Policy also required specific minimum language access standards that all CalHHS departments and offices must meet or exceed in their Language Access Plans:

- Interpretation Services: Provide free sign language interpretation and oral interpretation services in any spoken language upon request for all public contacts, including sight translation of vital documents, fully implemented by January 29, 2024;
- Translation Services: Translate all vital documents intended for statewide use, including essential public website content, into at least the top five threshold languages spoken by LEP individuals in California, according to the latest Census data (currently Spanish, Chinese, Tagalog, Vietnamese, and Korean). Vital documents and essential website content are to be identified by each department in their Language Access Plans and follow CalHHS guidelines. Vital documents include critical outreach materials, program applications, eligibility notices, participant rights and responsibilities notices, emergency information, and hearing notices. The determination of a document “vital” status depends on its importance to program access and the consequences of not providing accurate, timely information;
- Essential Website Content: Introductory web pages with basic program information and non-English language taglines in the top five threshold languages, along with ASL advisories about free interpretation and translation services must be included. Essential content must also be provided in ASL video clips. The identification and translation of vital documents and website content were to be completed by June 1, 2024; and,
- CalHHS’ Language Access Work Group is required to reevaluate the list of threshold languages and consider increasing the number of languages every two years, starting one year after the policy’s adoption.

The policy memo indicated that the CalHHS Language Access Workgroup would provide guidance to departments in developing their Language Access Plans, and that CDSS would administer additional funds to support interpretation and translation activities. According to the memo, departments were required to post their final, public-facing Language Access Plans on their websites by June 1, 2024, and departments under CalHHS have complied by posting their Language Access Plan online. To date, all departments, but the Office of the Patient Advocate and the Office of Youth and Community Restoration have posted their plans.

Currently, each department is required to appoint a language access coordinator as a part of the directive from CalHHS. Depending on the department’s size, more than one person may be needed to implement the department-level Language Access Plans. *This bill* creates the Office of Language Access to lead, coordinate, and oversee the development, monitoring, and periodic updating of Language Access Plans within CalHHS, aimed at enhancing accountability and oversight of the state’s language access efforts. *This bill* seeks to codify existing efforts, including the requirement for CalHHS departments and offices to develop Language Access Plan and the requirement for CalHHS to develop a Language Access Plan Guidance Document to support its departments and office in Language Access Plan development. Additionally, *this bill* seeks to introduce new requirements, such as establishing an advisory workgroup with public members, requiring CalHHS to develop a corrective action plan for a department that fails to implement its Language Access Plan, investigating the number of language access complaints received by each department and office, translating documents into the preferred language of individuals upon request, and establishing a language access internet website that serves as a central hub providing information and a directory of qualified interpreters and translators within CalHHS, among other provisions.

Author’s Statement: According to the Author, “California is home to one [of] the most diverse populations in the country, with residents who speak over 200 languages, variants, and dialects, and the largest LEP population in the United States. For the nearly 6.4 million Californians with LEP, language barriers pose a significant challenge to their ability to have meaningful access to quality health care coverage and services. Inadequate language services have resulted in longer hospital stays and higher likelihood of hospital readmissions for LEP patients, along with difficulties understanding instructions for post-discharge care, medication and follow-up. These avoidable clinical costs can be significantly reduced with improved interpreting and translation services. The Office of Language Access would serve as a central hub for building multilingual capacity within the state’s healthcare delivery system and ensure LEP individuals have access to government services. Not only will [this bill] close an important gap for those seeking a broad spectrum of health services, it will bolster California's ability to meet statutory language requirements that apply to Medi-Cal health plans.”

Equity Implications: This bill seeks to address language accessibility inequities that disproportionately affect individuals with LEP who are predominately people of color. By establishing the Office of Language Access within CalHHS, this bill aims to ensure equitable access to vital government programs and services for all residents, regardless of their English proficiency. Individuals with LEP will receive linguistically appropriate support, leading to better outcomes.

This bill codifies many existing efforts CalHHS has started to embark on which provides continuity of policies for future Administrations.

Proposed Committee Amendments: In order to address the above policy considerations, the Committee proposes the author take the following amendments:

On page 8, strike lines 9 and 10, in line 11, strike out “(c)” and insert: (b)

Double referral: This bill was previously heard in the Assembly Health Committee on June 11, 2024, and was approved on a 16-0 vote.

RELATED AND PRIOR LEGISLATION:

SB 1016 (Gonzalez) of the current legislative session, requires CDPH, whenever collecting demographic data as to the ancestry or ethnic origin of California residents for specified reports, to use separate collection and tabulation categories for each major Latino group, Mesoamerican Indigenous nation, and Mesoamerican Indigenous language group, as specified. *SB 1016 is pending before the Assembly Appropriations Committee.*

AB 2155 (Ting) of 2023, would have established the Bilingual-Oriented Social Equity Services Grant Program within CDSS to distribute funding to nonprofit community-based organizations (CBOs) to provide a pay differential to direct service professionals who communicate in a language or medium other than English as part of their job duties. *AB 2155 was held on the Assembly Appropriations Committee suspense file.*

SB 101 (Skinner), Chapter 12, Statutes of 2023, authorized nonprofits or CBOs to request additional funds to provide a pay differential of up to \$1,000 each year to each direct service professional whose primary job responsibilities include communicating in a language or medium other than English.

SB 435 (Gonzalez) of 2023, would have required CDSS, in the course of collecting demographic data as to the ancestry or ethnic origin of California residents for any report on the CalFresh program, to use separate collection categories and tabulations for each major Latino group, Mesoamerican Indigenous nation, and Mesoamerican Indigenous language, as specified. *SB 435 was vetoed by Governor Newsom.*

AB 1084 (Nguyen) of 2023, would have established the BOSES Grant Program within CDSS to distribute funding to nonprofit CBOs to provide a pay differential to direct service professionals who communicate in a language or medium other than English as part of their job duties. *AB 1084 was held on the Assembly Appropriations Committee suspense file.*

AB 136 (Committee on Budget), Chapter 76, Statutes of 2021, provided for the statutory changes necessary to enact developmental-services-related provisions of the 2021 Budget Act. Included provisions related to language access and required the Department of Developmental Services to establish and implement a system that promotes equity in access to services for consumers by providing a pay differential to direct service professionals who can communicate in a language or medium other than English.

SB 17 (Pan) of 2022, would have established the Racial Equity Commission (REC) within the Governor's Office of Planning and Research (OPR) to evaluate and recommend strategies for advancing racial equity across state agencies and departments. The REC would have developed a statewide Racial Equity Framework for the state, offer technical assistance to departments and local governments, engage in community outreach via quarterly stakeholder meetings, and publish annual reports on racial disparities in the state and recommendations to reduce such disparities. *SB 17 was ordered to the Assembly inactive file.*

AB 2253 (Ting), Chapter 469, Statutes of 2014, made substantive changes to the Dymally-Alatorre Bilingual Services Act, including requiring a state agency subject to the Act to translate and make accessible on the homepage if its internet website, forms, and processes for submitting complaints of alleged violations of the Act by July 1, 2015. Required that the forms and processes be translated into all languages spoken by a substantial number of non-English speaking people served by the state agency, among other things.

REGISTERED SUPPORT / OPPOSITION:

Support

Asian Health Services (Co-Sponsor)
 Asian Resources, INC. (Co-Sponsor)
 Center for Asian Americans in Action (Co-Sponsor)
 Orange County Asian and Pacific Islander Community Alliance, INC. (OCAPICA) (Co-Sponsor)
 Regional Pacific Islander Taskforce (Co-Sponsor)
 Alameda Health Consortium - San Leandro, CA
 All of Us or None Bakersfield
 American Alliance of Professional Translators and Interpreters
 API Forward Movement
 Asian Health Services (UNREG)
 Asian Pacific Islander American Public Affairs Association (APAPA)
 Asian Pacific Partners for Empowerment, Advocacy and Leadership (APPEAL)

Association of Asian Pacific Community Health Organizations (AAPCHO)
Buen Vecino
California Association for Bilingual Education (CABE)
California Democratic Party
California Healthy Nail Salons Collaborative
California Pan - Ethnic Health Network
Children Now
Chinese for Affirmative Action
CleanEarth4Kids.org
Coalition for Humane Immigrant Rights (CHIRLA)
Community Clinic Association of Los Angeles County (CCALAC)
Council on American-Islamic Relations, California
Courage California
CPCA Advocates
Empowering Pacific Islander Communities (EPIC) Fiscally Sponsored by Community Partners
Families in Good Health
Family Bridges
Having Our Say Coalition
Health Access California
Hmong Innovating Politics
Korean American Coalition - Los Angeles
Korean Community Center of The East Bay
Korean Community Services
Latino Coalition for A Healthy California
Lead Filipino
Little Tokyo Service Center
Marshallese Youth of Orange County Myoc
Mixteco/Indígena Community Organizing Project (MICOP)
National Association of Community Health Centers
National Health Law Program
NICOS Chinese Health Coalition
North East Medical Services (NEMS)
Pacific Asian Counseling Services
Pacific Islander Health Partnership
Racial and Ethnic Mental Health Disparities Coalition
Richmond Area Multi-Services, INC.
San Francisco Community Health Center
South Asian Network
The Black Alliance for Just Immigration
The Fresno Center
The Fund for Santa Barbara
Western Center on Law & Poverty, INC.
Young Invincibles

Opposition

None on file.

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