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LANGUAGE ACCESS IN THE DISTRICT

2011 Annual Compliance Review

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DCOHR

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Annual Compliance Review

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INTRODUCTION

The Office of Human Rights and the Language Access Act of 2004

The inception of Mayor Vincent C. Gray's administration in 2011 brought a renewed commitment to ensure the inclusion and integration of immigrants in the District of Columbia. In his first cabinet meeting, the new Mayor indicated that he wanted the District government to have greater community presence and directed his agency heads to increase outreach to hard-to-reach communities, including the immigrant community. One of the District's primary strategies to facilitate the integration of the District's immigrant communities is the ongoing implementation of the DC Language Access Act of 2004 (The Act)[1].

The DC Office of Human Rights (OHR) leads the citywide implementation of Language Access. The Act was created to ensure that the District's Limited English Proficient and Non-English Proficient (LEP/NEP) residents attain greater access to public services and increased participation in programs and activities. In August 2004, OHR established the Language Access Program with a mission to effect change within the government by researching best practices, tailoring existing language access resources to meet the needs of the District.

The Language Access Program is housed within OHR and oversees District agency compliance with requirements under the Act. Language Access Program staff work in consultation with a variety of goverment offices that conduct outreach to specific communities, including the Mayor's Office of African Affairs (OAA), the Mayor's Office of Asian and Pacific Islander Affairs (OAPIA), and the Mayor's Office on Latino Affairs (OLA). The Program also works with the DC Language Access Coalition—an alliance of diverse community-based organizations who work to ensure that civil rights of immigrant and LEP communities are protected by advocating for meaningful language access within the District. The Coalition is a non-governmental and non-Mayoral appointed group that is written by name into the Act.

The purpose of this report is to inform elected leaders, government officials, and the public of the level of compliance from the District's "covered agencies with major public contact"[2]. This report also describes OHR's enforcement work in conducting investigations of all allegations of noncompliance with the law and monitoring the policies' implementation District-wide that both reflects the law's intent and meets the needs of the target population.

▶FACT In FY 2011 District agencies encountered a reported 193,497 LEP/NEP constituents.

[1] According to DC Law 15-167; DC Official Code § 2-1931 et seq, the purpose of the Act is, "to provide greater access and participation in public services, programs, and activities for residents of the of the District of Columbia with limited or no-English proficiency by requiring that District government programs, departments, and services assess the need for, and offer, oral language services; provide written translations of documents into any non-English language spoken by a limited or no-English proficient population that constitutes 3% or 500 individuals, whichever is less, of the population served or encountered, or likely to be served or encountered..."

[2] All District agencies as well as District government contractors or vendors are covered by the Act. There are a total of 34 agencies designated as "major public contact" agencies which are subject to additional obligations under the Act.

Target Population

According to 2010 US Census data, 81,734 (13.5%) District residents were foreign born and 83,073 (14.5%) residents age five (5) and over spoke a language other than English. Of the 83,073 residents age five (5) and over that spoke a language other than English, 39,395 (44%) spoke Spanish, 22,621 (31%) spoke an Indo-European language such as Hindi or French, 9,978 (12%) spoke an Asian and Pacific Islander language such as Chinese or Korean, and 11,079 (13%) spoke another language such as Amharic.

In order to accurately describe LEP/NEP residents, it is important to determine whether District residents who speak a language other than English are able to speak English "very well" or less than "very well." Overall, in 2010, of the residents age five (5) and older that spoke a language other than English, a total of 23,730 (27%) spoke English less than "very well", meaning that 59,343 (71%) spoke English "very well".

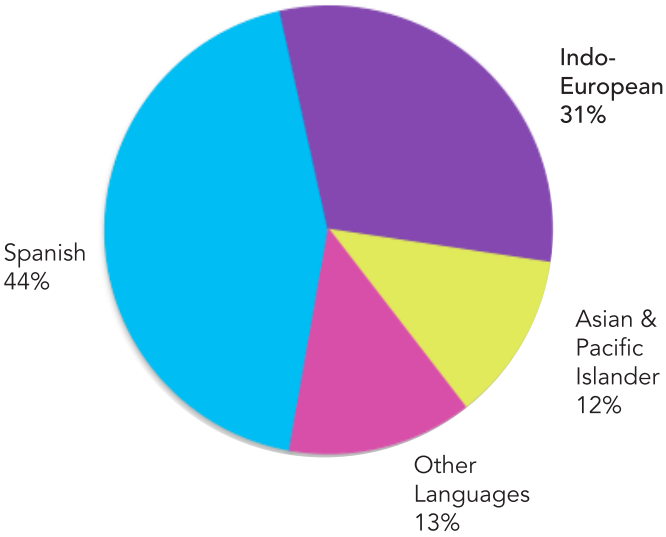
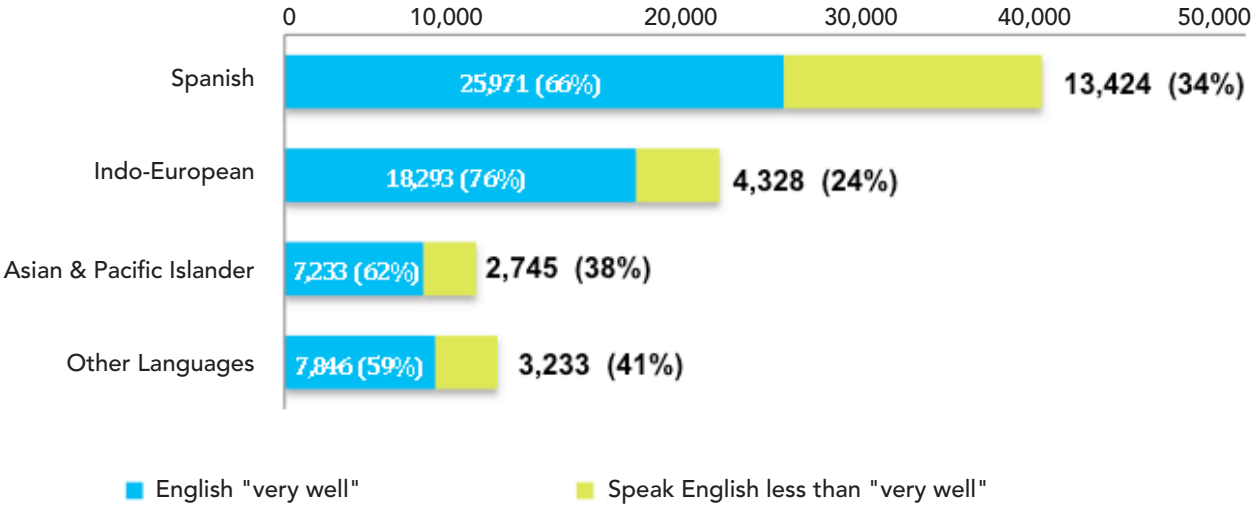


Chart 1: District Residents age five (5) and over that speak a language other than English

As the chart below illustrates: Of the 39,395 Spanish speaking residents, 25,971 (66%) speak English "very well" and 13,424 (34%) speak English less than "very well"; of the 22,621 Indo-European language speaking residents, 18,293 (76.3%) speak English "very well" and 4,328 (23.7%) speak English "less than very well"; of the 9,978 Asian and Pacific Islander language speaking residents, 7,233 (62%) speak English "very well" and 2,745 (38%) speak English "less than very well"; and of the 11,079 residents that spoke other languages, 7,846 (58.8%) spoke English "very well" and 3,233 (41%) spoke English less than "very well"[3].

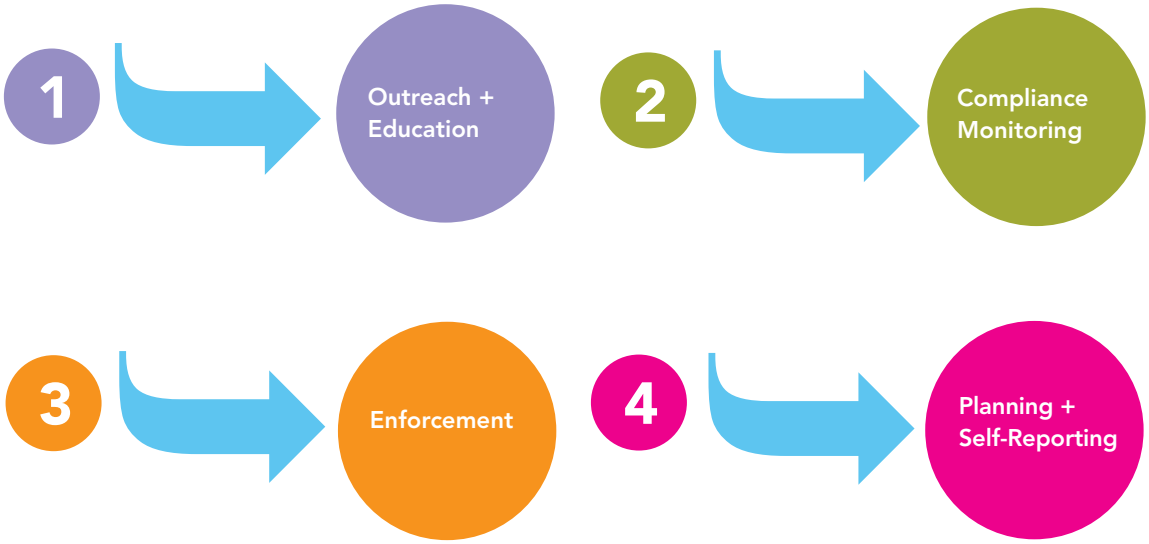
Chart 2: District Residents age five (5) and over that speak English "very well" or "less than very well"



[3]Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin error. The value shown here is the 90 percent margin of error.

OVERVIEW OF LANGUAGE ACCESS PROGRAM

The Language Access Program (Program) is staffed by a Director and Program Analyst and monitored by the OHR Director. The Program was designed to support, guide, and oversee District agency compliance with and implementation of the Language Access Act. Programmatic work is divided into four major categories: Outreach and Education, Compliance Monitoring, Enforcement, and Planning and Self-Reporting.



1 Outreach and Education

The Program partners with the consultative agencies under the Executive Office of the Mayor, the Language Access Coalition, and District agencies to disseminate information about the protections and provisions in the Language Access law. Education and outreach efforts seek to raise awareness in LEP/NEP communities so that residents that experience a denial of access to services know they can seek redress.

The Program staff also conducts trainings quarterly or as-needed for District agency employees on their legal obligations under the Act. The Program staff also develop and distribute printed educational materials, meet monthly with community based partners, and host or attend outreach events in a continuous effort to assess the quality of services to the LEP/NEP communities as well as to keep District government agencies informed of and connected to the communities' needs.

▶FACT In FY 2011, the Program trained over 300 District employees on Language Access requirements and resources.

The following are the major outreach and education efforts made by OHR in FY 2011:

Community Forums

As a result of the Mayor's initiative for agencies to have greater community presence and work with hard-to-reach communities, such as immigrants, the Program increased its outreach efforts in 2011.

Two community forums were planned and convened with a focus on LEP/NEP rights and access to government services. Forum planning was coordinated by a committee representing fifteen (15) local community-based organizations and eight (8) District agencies. The overall goal of each forum was to facilitate discussion between LEP/NEP residents and District agencies regarding the quality of and access to employment, health, and social services.

Over 200 individuals attended the forums and 120 attendees were LEP/NEP District residents. By bringing together key stakeholders of LEP/NEP rights, i.e. community and DC government advocates and the constituents themselves, the forums generated valuable feedback regarding access to services and contact with District agencies. This feedback was reported back to government officials during the final plenary session and has been used by the Program to create positive change within the District's government. A short video describing the forums was created and can be found at the OHR's webpage (www.ohr.dc.gov).

Memoranda of Understanding

The OHR signed memoranda of understanding with the consultative agencies: the Mayor's Office of African Affairs, the Mayor's Office of Asian and Pacific Islander Affairs, and the Mayor's Office on Latino affairs. These agreements provided funds for these offices to increase outreach efforts to LEP/NEP communities via community forums and to distribute *"Know Your Rights"* cards to members of the District's LEP/NEP communities.

Quarterly Newsletters

The Program disseminated four (4) newsletters in FY 2011 that highlighted newsworthy events, new research or milestones regarding language access, upcoming events, and important reminders such as quarterly language access report submission deadlines. The newsletters also spotlighted advocates that demonstrated exceptional work in the area of language access. The goal of these newsletters was to increase internal and external communication about language access in the District.

The "Know Your Rights" Education Campaign

The OHR expanded its culturally competent language access *"Know Your Rights"* education campaign in 2011 to include materials translated into Amharic, Chinese, Spanish, and Vietnamese. The OHR also promoted the campaign in foreign-language newspapers. In 2012, the OHR will translate the campaign into French and Korean and publish the campaign in French and Korean newspapers.

2 Compliance Monitoring

Through compliance monitoring, the Program staff work with District agencies to ensure their legal obligations are met under the Act. The Program aids, guides, and monitors All thirty-four (34) District agencies with major public contact are covered by the Act in their implementation of the following compliance objectives: (1) Data collection on language(s) spoken by their consumer base; (2) Provision of oral language services; (3) Provision of written translations of vital documents; (4) Training of agency staff on Language Access requirements, resources, cultural competency; and (5) Community outreach and education to all LEP/NEP populations served by the agency [5].

The Language Access Program staff provides oversight of these compliance objectives in the following ways:

- Central coordination, and technical assistance to covered entities in their implementation of the DC Language Access Act;
- Ensure that the services provided by District agencies meet acceptable standards of translation and interpretation;
- Observe each agency's language access plan for compliance with the law;
- Track, monitor, and investigate public complaints regarding language access violations at District agencies and, where necessary, issue written findings of noncompliance to agencies regarding failure to provide language access;
- In cases of non-compliance identify corrective actions and ensure that agencies fulfill their obligations under the law; and
- Review and monitor the Language Access Coordinators with respect to their performance of responsibilities under the law.

3 Enforcement

The Program staff are also charged with enforcement responsibilities when agencies are found to have violated the Act. Agency audits or audits of a program within an agency are investigations launched at the discretion of the OHR Director to focus-in on agencies' language access procedures and policies. Agencies may be audited whether or not they have been found to have violated the Act. OHR investigates language access complaints and in the event OHR determines that an agency has violated the Act, a set of corrective actions are identified. Program staff meets with agency leaders to discuss the implementation of changes that must be made and will be dictated by the list of corrective actions. A list of agencies found in non-compliance during FY 2011 is included in this report.

▶FACT 7 complaints were docketed for investigation in FY 2011.

[4]Listing of covered entities with major public contact can be found in Appendix.

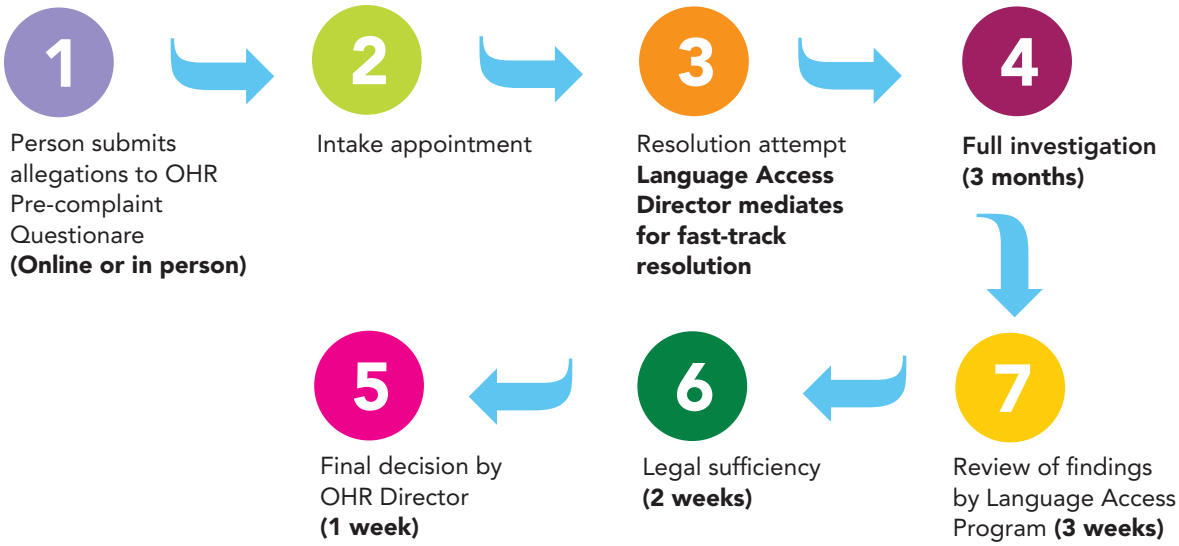
Language Access Complaints

If a District resident who is LEP or NEP believes their ability to access services has been hindered or violated they may report this occurrence to OHR. In some cases the resident reports this directly to OHR by completing an intake questionnaire form on-line or in-person. In other instances complaints are made to a local community based organization that assists LEP/NEP individuals in communicating this with OHR. All complaints received by OHR are reviewed and specific details about how complaints are resolved are provided below.[6]

Complaint Review Process

Language Access complaints are divided into two categories: an informal complaint and a formal complaint. An informal complaint is one in which OHR and the Language Access Director works with the District agency to address the language access barrier and ensure the needs of the LEP/NEP individual are met. Resolution is possible because a District agency acknowledges an access issue and is willing to collaborate. Program staff then follow up with the District agency to provide short-term intervention such as technical assistance.

Language Access Complaints: What to Expect



[5] As of the first quarter of FY12, OHR will refer to informal complaints as *Stage 1 Complaints* and formal docketed complaints as *Stage 2 Complaints* in order to more effectively track at what stage a complaint is resolved.

Informal Complaints

In 2011, the Language Access Program began documenting and reporting all language access complaints that were brought to OHR but not docketed (i.e. formally entered into our case log). Since the Program's inception in 2004, a total of 27 formal complaints were docketed. This relatively low number of formal language access complaints fails to capture the totality of the language access complaints because a significant number of them never get formally docketed. For example, some complainants that bring a language access case to OHR have their issue resolved within the 30-day period granted to the Language Access Director to resolve case (i.e. fast-track resolution). Documenting and reporting the non-docketed language access complaints received by the OHR will help create a more accurate picture of the language access violations across District agencies specifically, and, in general, the District's overall performance. For FY 2012, all Language Access Coordinators have been instructed to continue the documentation of informal complaints.

In 2011, the Language Access Program took on ten (10) informal (i.e. Stage 1) language access complaints. Five (5) of those complaints were resolved and the needs of the LEP/NEP constituent were met and another five (5) were outside of OHR's jurisdiction. The parties in one (1) of the cases were not able to come to an agreement and the case was formally docketed for investigation with the OHR.

FY 2011 Informal (Stage 1) Complaints

	Alleged Lack of Document Translations	Alleged Lack of Interpretation Services	Out of OHR Jurisdiction	Total
# of Issues Resolved within 30 days	3	1	0	4
# of Cases Referred to an external entity[7]	0	2	3	5
# of Cases advanced to Stage 2[8]	1	0	0	1
# of Total Cases	4	3	3	10

[6] Referrals made due to lack of jurisdiction

[7] Complainants have the option of formally filing their case with the OHR upon failure of fast-track resolution mediated by Language Access Director.

Formal Complaints

A formal complaint is one that includes a completed intake questionnaire, a subsequent intake interview, and does not get resolved through fast-track resolution. When a District agency fails to acknowledge systemic challenges or a discrete instance of language access barrier the complaint is then docketed for full investigation. Program staff work closely with OHR on the formal investigation of complaints alleging a violation of the Act. As seen in the chart below, OHR follows very similar procedures in complaints filed under the DC Human Rights Act to investigate and resolve Language Access complaints.

Seven (7) new language access complaints were filed with OHR in 2011. Two (2) of those complaints were determined to be violations of the Act and the remaining five (5) are in the process of being determined. Of the 27 complaints filed in the past four (4) fiscal years, seven (7) were determined to have violated the Act. These seven (7) complaints produced a twenty six percent (26%) violation rate, which is significantly higher than the eleven percent (11%) violation rate found in OHR's discrimination complaints.

FY 2011 Formal Complaints Docketed

	FY2008	FY2009	FY2010	FY2011	Total
# of No Violation Found	3	3	8	0	14
# of Violation Found	2	2	1	2	7
# of Cases Settled In Mediation	1	0	0	0	1
# of Cases Under Review	0	0	0	5	5
# of Total Cases	6	5	9	7	27

FY 11 OHR Decisions and Corrective Actions

In 2011, two (2) agencies were found in violation of the Act: The Department of Consumer and Regulatory Affairs (DCRA) and the Office of Attorney General's (OAG) Child Support Services Division (CSSD). The DCRA was found to have violated the Act for not providing a Complainant interpretation services in their native language. Consequently, the agency was required to conduct a series of corrective actions including online and in-person language access training, redistribution of the DC government's telephonic interpretation services quick reference guide to all public contact position (PCP) employees, and agency-wide reissuance of DCRA's Administrative Issuance No. 5-01B-11 "Accessing Language Line Services".

OAG-CSSD was found to be in violation of the Act for not providing the Complainant with interpretation and translation services in their native language. As a result, the agency was required to institute a new agency-wide language access policy, conduct in-person training for all "public contact position" (PCP) staff, redistribute the DC government's telephonic interpretation services quick reference guide to all PCP staff, ensuring that all areas where constituents spoke with agency staff contained large and small Interpretation Services Available signs and, ensure that all agency vital documents are translated into the language in question, or at least contain a tagline in that language instructing constituents on how to request translation services.

The Language Access Director continues to work with DCRA and OAG-CSSD as well as update the respective complainants on the case, ensuring that all corrective actions are completed in a timely fashion.

4 Planning and Self-Reporting

In order to better assess agency efforts in providing equitable access to services for LEP/NEP consumers, OHR established a mandatory agency planning and self-reporting process. The Program monitors how well the 34 agencies with major public contact (District Agencies and their contractors or vendors) meet their legal obligations. Compliance monitoring is done by: (1) Ensuring each agency identifies attainable two-year goals and objectives with regard to their obligations in their provision of services under the Act; (2) Reviewing progress on a quarterly basis to track changes and improvements in services that are being provided; and (3) Collaborating with Language Access Coordinators to support agencies performance in accordance with their plans.

Biennial Language Access Plans (BLAPs)

Published in the DC Register, the BLAPs are 2-year compliance plan that guides individual agency accountability to the Act and is developed by all 34 agencies. Unlike the quarterly self-reporting process, BLAPs are developed in collaboration with the Language Access Director, the D.C. Language Access Coalition, the agency Language Access Coordinator, the agency's Director, and the Language Access Consultative agencies. This process facilitates transparency and accountability during the development of the agency's 2-year goals in efforts to achieve optimal compliance standards. The BLAP contains specific information on the following: (1) Mechanisms in place to collect data on languages spoken by agency consumer base; (2) Resources utilized by the agency to ensure the provision of oral language services; (3) Documents identified as vital to the agency's operation and the target languages for translation; (4) Strategies in place to train agency staff on Language Access; and (5) Outreach activities planned for LEP/NEP communities.

As required by the Act, in FY 2011 OHR organized BLAP review sessions for all 34 major public contact agencies that included feedback from the Consultative Agencies and representatives from the DC Language Access Coalition to assure that these review sessions were organized and included community representation in Language Access implementation agency-wide.

Quarterly Reports

Agencies are required to submit quarterly progress reports to OHR by providing data on the following;

(1) LEP/NEP constituents served per quarter and languages spoken by these constituents;
(2) Oral interpretations to LEP/NEP populations, as needed and requested (i.e. telephonic interpretation and in-person interpretation);
(3) Archives of vital documents as reported in agency's BLAP;
(4) List all vacant public contact positions
(5) Recruitment activities for bilingual staff;
(6) A bilingual employee matrix;
(7) Language access related training sessions conducted per fiscal year to ALL agency staff that fill a public contact position;
(8) Language Line Services training sessions conducted per fiscal year to ALL agency staff that fills a public contact position;
(9) Language assistance activities/resources that was provided to All agency staff;
(10) Outreach activities provided to each LEP/NEP community the agency encountered or is likely to be encounter;
(11) Public meetings conducted with the LEP/NEP community; and
(12) All language access related complaints the agency received each quarter.

The challenge with the self-reporting system is that agencies tend to place more emphasis ensuring that they adhere to items on the legislative checklist and agencies often give less importance to the quality and outcomes of services provided to LEP/NEP residents. The self-reporting system alone would be an ineffective oversight and enforcement mechanism; however, when performed in tandem with language access independent testing and complaint investigation, the Program has proven to be effective.

Language Access Coordinator Technical Support

In efforts to support agencies' Language Access goals, OHR enforces a component of "fiscal monitoring" by requiring agencies to report on costs incurred when providing interpretation and translation services. The thought process behind this is to focus on whether program cost information is reasonable to achieve program objectives, as well as to begin to assess the cost of implementing this law for the District.

▶FACT In FY 2011, the District spent a total of $739,385.64 on agency-wide Language Access implementation, a record low for the Program.

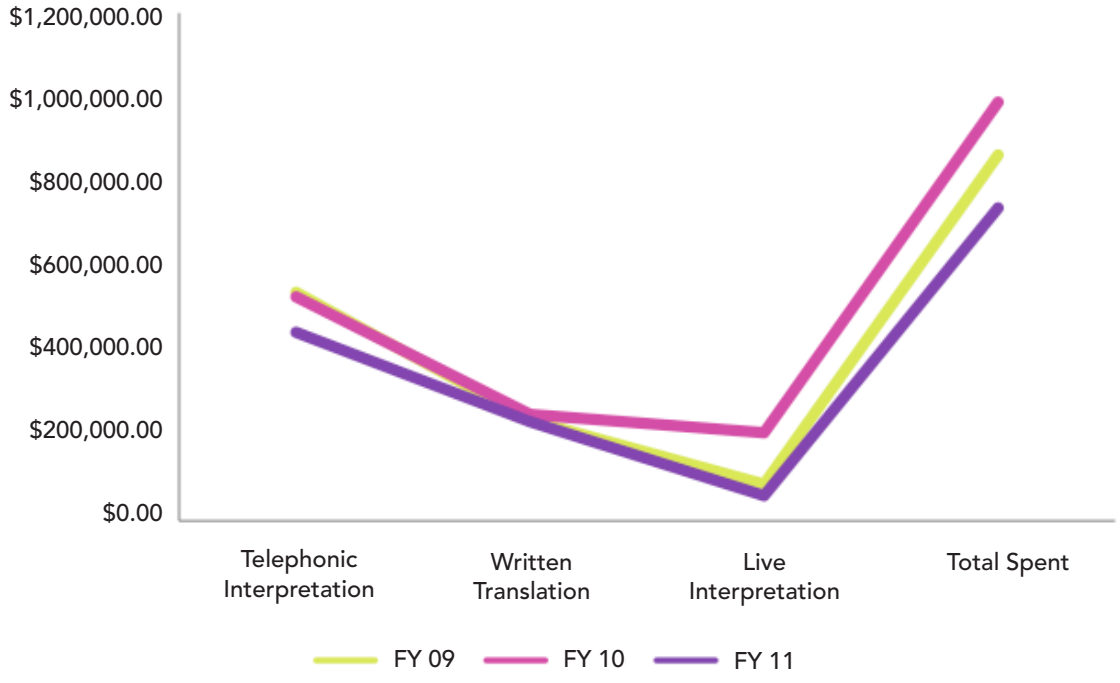


Chart 4: Agency-wide Language Access Expenditure Trends FY 2009, FY 2010, and FY 2011

COMPLIANCE SCORING AND COMPARATIVE RESULTS

"The OHR shall collect and publish statistical information regarding Language Access public complaints as well as report out annually on deficiencies found, progress made, and overall compliance with the Act for each covered entity." [8]

How Compliance Scores Are Measured

Overview

Sixty percent (60%) of an agency's overall compliance rating is based on quarterly report submissions. Progress on each legislative/programmatic requirement is rated based on the agency's self-reported evaluation as prescribed in their BLAPs.

Upon review of each report, OHR assigned a rating of "fully met" (2 points) for each requirement that was completely met; "partially met" (0.1-1 point) for each requirement that was partially met or not fully responded to; and "not met" (0 points) when the requirement was either not met or no information was provided indicating otherwise. Agencies will receive "no rating" for requirements that were not applicable based on particular circumstances. For example, if an agency faced a hiring freeze, it may not have been feasible or appropriate for them to recruit for bilingual staff. In this case, an agency would not be penalized for failing to submit information on this requirement only *if* the OHR was fully informed of the situation and the agency justified its position.

Language Access Testing Methodology [Compliance Measure]

Forty percent (40%) of agencies' overall compliance rating is based on results garnered from language access testing conducted by a third party organization and monitored by the Program. In FY 2011 the OHR used agencies' self-reported data from the previous fiscal period as a baseline to determine the top three (3) languages most frequently encountered by each agency. Subsequently, the OHR considered this data when selecting the language(s)in which each agency would be tested. [9] Agencies were then divided into three (3) categories based on the languages they most frequently encountered and the volume of LEP/NEP constituents they serve.[10] Specific locations to be visited and scenarios to be used were identified based on suggestions from various stakeholders (i.e., the D.C. Language Access Coalition; the Mayor's Offices on African Affairs, Asian and Pacific Islander Affairs, and Latino Affairs; agency Language Access Coordinators; and LEP/NEP communities who have expressed concerns about the lack of services offered in some specific District government locations). OHR then created a master list of service centers for all 34 agencies and coordinated with each District agency being tested to ensure that the addresses and phone numbers to all locations were accurate. Once the test locations and languages were identified, scoring criteria incorporating requirements of the Act and the customer's overall experience were developed and/or tailored from existing criteria used by Office of Unified Communications. OHR developed Test Report Forms for each type of test for testers to indicate the following:

- Accessibility of signs indication the availability of language services,
- Agencies' willingness to identify the language and assist testers by providing interpretation via telephonic interpretation or bilingual staff;
- Availability of translated materials;
- Employee's willingness to provide professional and courteous services in accordance with the Mayor's standards for customer service;
- And employees' willingness to assist the tester in a timely manner.

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[8] Pursuant to the D.C. Municipal Regulations Chapter 12, Section 1202.3

[9] Agencies were tested in the following languages: Amharic, Chinese, French, Spanish and Vietnamese.

[10] Examples include: D.C. Public Schools *(Category I: High Volume);* Department of Housing and Community Development *(Category II: Mid-Volume);* D.C. Office of Zoning *(Category III: Low Volume)*

Tests began on April 1, 2011 and ran for twelve weeks. A total of **282** tests were conducted; **177** via telephone and **105** via in person.

Scoring of tests followed a three-pronged approach[11]:

(1) *Tester's impression of their experience:* Testers were required to answer all questions on the Test Report Forms, provide narratives of all encounters, and subjectively rate the agencies on their overall impression on how well they accessed services in their language using the following scale: [12]

3 – GOOD 2 – AVERAGE 1 – POOR	
3	The LEP customer was fully assisted and was provided by exemplary service from the employee. Employee went above and beyond, was very pleasant and served the LEP client efficiently and without hesitation either through the use of Language Line Services or through a bilingual staff member. Employee clearly knows how to assist a LEP client and provided the answer in a timely manner and in the order upon which he/she arrived.
2	Employee was knowledgeable on the agency's available resources to assist LEP customers, and utilized some or all resources to serve the customer. Employee may have taken a lengthy amount of time to assist the LEP customer and may not have fully addressed the customer's needs (e.g., did not provide the customer with the material necessary to assist in the situation presented). Customer service provided to LEP customer was average. **End result: Some or all Service was provided.**
1	Employee did not or was unable to assist. Employee may not have any real knowledge on how to assist a LEP and/or what resources are available in employee's agency to do so or was not willing to assist at all. Employee attempts to dismiss the LEP customer. Examples for this rating include, (1) Employee may have provided poor customer service; (2) Employee may have insisted that the LEP customer return when bilingual employees are present or with their own interpreter. **End result: Service was not provided**.

(2) OHR's Score: Based on the testers' evaluation submitted, OHR calculated a separate score of the test conducted. Both types of test had a set of questions on the report form that were assigned points by OHR. There were a total of six (6) points available for the in-person tests and five and a half (5.5) points available for the telephone tests.

(3) Rating: Similar to the scoring used for the legislative/programmatic requirements, agencies received a rating of "2" if they attained all possible points available for a test; "1" if they achieved a substantial portion of those points; and "0" if they achieved little to no points. Above are the ranges available for both test:

Face to Face Test Total Score Rating	Rating
Score of: 6	Received a rating of 2
Score of: 3 – 5.9	Received a rating of 1
Score of: 0 – 2.9	Received a rating of 0

Telephone Test Total Score	Rating
Score of: 5.5	Received a rating of 2
Score of: 2.7 – 5.4	Received a rating of 1
Score of: 0 – 2.6	Received a rating of 0

[11] See Appendix A, Table 3 for Language Access testing results.
[12] Due to subjectivity, Tester's impressions are omitted when compiling the overall agency test score but instead are used internally, in conjunction with a narrative account of the test, to justify the overall scores.

▶FACT In FY 2011 overall tester scores indicated that Spanish speakers were 5 times more likely to receive materials in their language than any other language.

Compliance Score Card Components

Below is a sample of an agency's "score card" that includes both compliance monitoring and testing components:

SECTION I: Planning and Self-Reporting (Legislative and Programmatic Requirements)	Status Rating
1. Establish a biennial language access plan (BLAP) for the agency.	Sample: Fully met (2)
2. Identify a Language Access Coordinator (LAC).	
3. Collect data on the languages spoken by the agency's LEP/NEP clients on a quarterly basis.	
4. Provide oral interpretations to LEP/NEP populations, as needed and requested.	
5. Develop, revise, and/or translate contents of agency's archive of vital documents.	
6. Conduct recruitment activities for bilingual staff.	
7. Conduct a minimum of one cultural competency-related training session per fiscal year to ALL agency staff that fills a public contact position.	
8. Train agency staff (mandatory for those who fill a public contact position) on telephonic interpretation services and usage.	
9. Train ALL agency staff on the agency's language assistance activities/resources.	
10. Conduct outreach activities to each LEP/NEP community served by the agency that meets the "3% or 500 individuals" threshold.	
11. Conduct a minimum of one (1) public meeting per fiscal year within the BLAP period.	
12. Submission of quarterly reports. (Four total.)	
13. Attendance of all quarterly meetings (Four total.)	
Subtotal (Total Rating divided by 13):	

SECTION II: Language Access Testing	Status Rating
Face-to-Face Tests Sample Score: 5.16	Sample Rating:1
Telephone Tests	
Subtotal (Total Rating divided by 2):	
Subtotal (Total Rating divided by 13):	

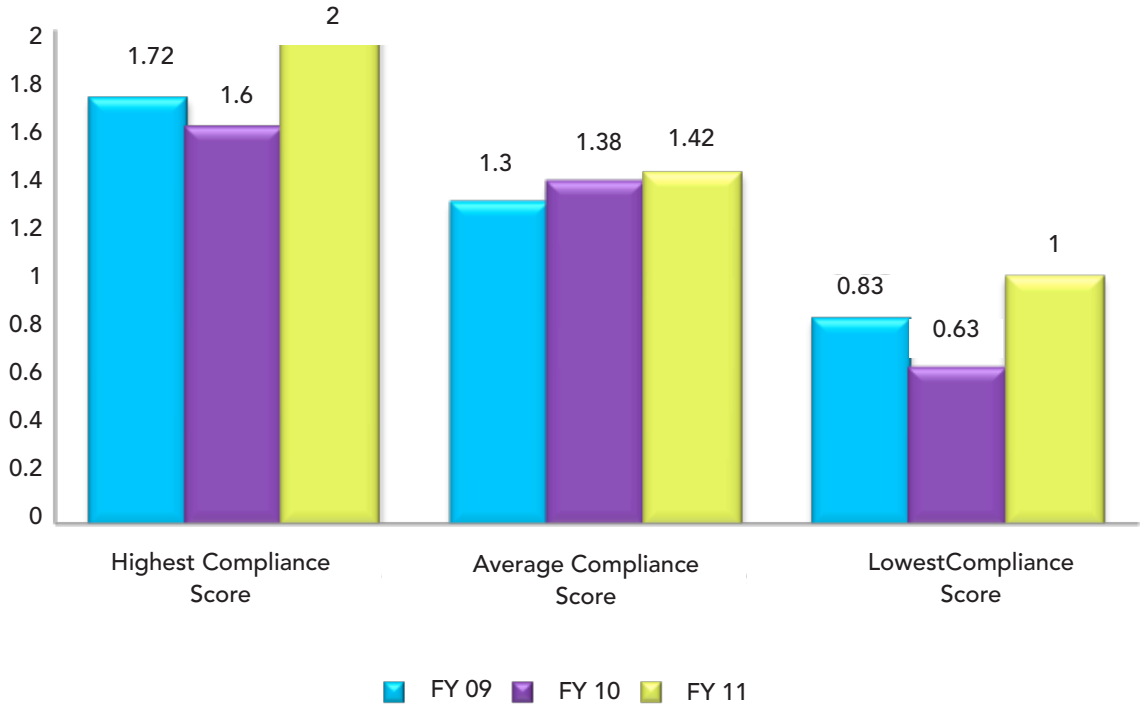
Section I Total: Section I Subtotal x .6 = _____ (60%)
Section II Total: Section II Subtotal x .4 = _____ (40%)
Total Score: _____
Agency Compliance Rating: _____

Compliance Ratings

The overall score on the 13 legislative/programmatic requirements (self-reporting) and test scores (language access testing) are added to produce a compliance score, which correspond to the rating of either exceptional compliance; above average compliance; average compliance; below average compliance; or non-compliance (see chart below).

Score Range	Rating
2.0	Exceptional Compliance
1.6 - 1.9	Above Average Compliance
1 - 1.59	Average Compliance
.6 - .99	Below Average Compliance
0 - .59	Non-compliance

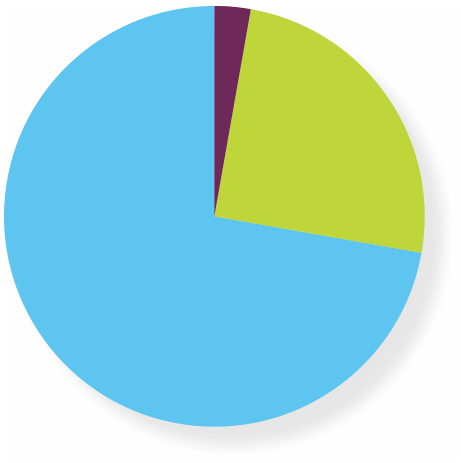
▶FACT The District received an overall compliance of 1.47 (Average Compliance in FY 2011), a 13% increase in overall average compliance scores since 2009.



FY 2011 Compliance Results at a Glance[13]

FY 2011 District-wide Overall Compliance

- 3% of agencies rated at "Exceptional Compliance"
- 25% of agencies rated at "Above Average Compliance"
- 72% of agencies rated at "Average Compliance"
- 0% of agencies rated at "Below Average Compliance"
- 0% of agencies rated at "Non-Compliance"



▶FACT In FY 11, for the first time in the history of the Language Access Program, the OHR observed one (1) agency compliance scores reach a perfect rating of 2.00 (Exceptional Compliance). The statistical results reveal gradual increases in overall compliance scores.

[13] Please note that language access tests were not conducted at OHR since the agency administers the testing program. OHR did receive a perfect score on the legislative/programmatic requirements. However, because that component consists of only sixty percent (60) of the compliance rating, OHR's compliance score was not included in the District's overall rating.

▶FACT With regard to agency full compliance with legislative requirements, OHR has observed an 11% increase in the provision of oral language services; a 7% increase in written translation services; 77% increase in outreach efforts; and a 19% in agency staff training on Language Access, since 2009.

Legislative Requirements: Oral Language Services
- 94% of agencies "fully met" the requirement in FY 2011
- 6% of agencies "partially met" the requirement in FY 2011
- 0% of agencies did "not meet" the requirement in FY 2011

Legislative Requirements: Written Language Services
- 62% of agencies "fully met" the requirement in FY 2011
- 22% of agencies "partially met" the requirement in FY 2011
- 16% of agencies did "not meet" the requirement in FY 2011

Legislative Requirements: Outreach
- 84% of agencies "fully met" the requirement in FY 2011
- 3% of agencies "partially met" the requirement in FY 2011
- 13% of agencies did "not meet" the requirement in FY 2011

Legislative Requirements: Trainings
- 62% of agencies "fully met" the requirement
- 22% of agencies "partially met" the requirement
- 16% of agencies did "not meet" the requirement

CONCLUSION AND RECOMMENDATIONS

The Office of Human Rights' Language Access Program oversees compliance and enforcement of the Language Access Act using three (3) indicators, including, agency quarterly and biannual reporting, Language Access testing, and Language Access Audits. Testing and audits are particularly important indicators, as they are directly related to stringent enforcement of the Act (audits) and individuals' ability to make use of vital government services (testing). The 2011 statistical results demonstrate gradual improvement throughout the last two fiscal years in language access compliance by District government agencies. Specifically, District agencies have improved in the areas of outreach to the community and data collection on languages spoken by constituents they serve, showing a positive trend towards continued improvement in the coming years. The District government's overall compliance rating, however, suggests that there of room for improvement.

The Language Access Program conducted a recent audit of one of the "covered agencies with major public contact" and discovered a high rate of "non-compliance" to the Act, OHR identified document translation as well as training agency staff on Language Access and Cultural Competency as areas that presented major challenges to the agency. This "non-compliance" reveals that some vital public programs remain unaware of the legal obligations when serving LEP/NEP constituents. The OHR remains committed to enforcing the Language Access Act and ensuring that District agencies' service delivery is the paradigm of accessibility and inclusiveness for the residents, employees and visitors to the District. After seven (7) years of successfully building the Program's infrastructure, more emphasis needs to be placed on improving quality of language access services. The following recommendations include necessary strategies for improving OHR's oversight and enforcement based on recent trends as well as the evolution of the Program. They also include strategies for ensuring agencies have the tools and resources in place to meet their obligations under the Act.[14]

Strategies to Improve Language Access Compliance

1. Appropriate budgeting, designation, and tracking of funds for language access costs.

OHR continues to recommend that the Offices of Deputy Mayors and the City Administrator, in conjunction with all covered entities, work to ensure that the allocation of local appropriated dollars for language access activities for fiscal year 2013 (e.g., translations, interpretations, etc.) are increased or maintained. We strongly suggest that agencies with a large number of LEP/NEP customers, as represented in this report, do not compromise language access costs for FY2012 and FY2013. Additionally, we recommend that the language access-related budget is reflected within the appropriate Program Management activity index (e.e. program 100, activity 1093) for all agencies. By making this adjustment to the Program Management activity index, OHR can maintain an accurate account of the overall language access budget for the District, and track expenditures accordingly during the course of the year.

2. Bilingual Employees in District Government

A. Assessment of bilingual-preferred positions and implementation of linguistic proficiency of existing bilingual staff.

Presently, the District does not have an accurate account of bilingual preferred positions that are advertised, and the classified descriptions for those positions vary greatly in the need, type and scope of bilingual services required by those employees. The District uses the method of "self-identification" to inform the agency of a potential second language spoken by an applicant or current employee.

[14] Recommendations include those from FY 2010 that have not yet been implemented.

However, agencies do not have a standard or qualified method to assess the proficiency in a second language, which can present a hindrance to services provided and possible liability issues to the agency. Since the District does not have a standardized method in place to assess this linguistic proficiency, OHR recommends that the Department of Human Resources (DCHR) should review the classification of bilingual preferred positions and establish a standard assessment, by regulation, that will be required for an applicant who is applying for a bilingual position or an existing employee who has self-identified as bilingual (if his/her language skills are being utilized in performing their duties).

B. Establish pay differential for bilingual hires and existing staff.[15]
Certified bilingual employees should receive minimal compensation for their language expertise. Doing so will aid them in using their language expertise for conducting interpretation and translations, thereby, reducing the cost of using the language line or contractors. Agency staff are more likely to have subject matter expertise and can reduce the amount of time and stress related with basic inquiries or more challenging questions that require multi-step troubleshooting. Compensation could also have the effect of encouraging agency staff to take the time to become certified.

4. Develop a cultural competency curriculum with LEP/NEP communities as a focus.

Title 4 of the D.C. Municipal Regulations requires that in consultation with the Language Access Director and consultative agencies, the personnel authority shall create a linguistic and cultural competency training curriculum that will be made available through DCHR. D.C. Mun. Regs. Tit. 4, § 1211. OHR has internal expertise and access to outside local and nationally recognized experts to support the development of this curriculum. Over the course of six months OHR and LAP staff would conduct research, design training modules of varying length and produce supporting materials. This work, however efficient, has costs associated with it and to date funds designated for this work have not been available.

5. Examine the newly published census data and reassess the major foreign languages spoken by District residents.

This assessment is overdue given that Census 2010 is the first full census in the District since Language Access became law. Resources are available through the DC Office of Planning, the DC Board of Elections, as well as the Office of the Chief Technology Officer Geographic Information System mapping software. These resources are in place to help us examine and interpret the latest census from the perspective of foreign immigration growth, languages spoken in the District, and identification of neighborhoods in the District where high volumes of non-English language populations reside. It is imperative that the District's Language Access Program accurately reflects the current demography of the city in order to deliver the most effective services possible.

6. Require that all agency employees in public contact positions complete the online language access training module.

This newly developed user-friendly training, available at www.ohr.dc.gov is integrated into the existing menu of OHR's online learning courseware. The module is free of cost, easily accessible, and scenario-based to inform all DC government employees and contractors of the basic requirements of the Language Access Act.

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[15] MPD is the only District agency that provides a biweekly monetary stipend ($50) for a second language skill dependent on the successful completion of their language assessment.

Strategies to Improve OHR Program Oversight and Monitoring

1. Alter the current methodology used to evaluate Language Access compliance.

OHR should modify the way it rates agencies and the District for compliance with the legislative and programmatic requirements of Language Access Act. For the past three (3) years, OHR has increased the emphasis on foreign language field testing conducted by non-government testers to rate compliance. Due to budget constraints, OHR can no longer sustain this testing initiative. We believe reliance on self-reporting from agencies to evaluate compliance is an ineffective means to ensuring compliance which may possibly lead to skewed data. For this reason, OHR will conduct a review of its rating method with the goal to achieve the most transparent, legitimate and accurate compliance result possible. This new method should include a targeted focus on agencies and programs with the highest volume of encounters with LEP/NEP residents, as well as agencies and programs with a high record of Language Access complaints filed against them.

2. Continued to exercise the "audit" provision granted by law to OHR.

During the last seven (7) years, OHR only initiated an audit in one (1) instance. The Language Access Law authorizes OHR and the Language Access Program to audit "covered agencies with major public contact" for compliance. After auditing a vital program in District government responsible for inspecting homes for possible violations of the Housing Code, OHR found this agency in "violation" of the Language Access Act. This audit revealed that if used effectively, the auditing provision can greatly serve the intent of the Act, and establish a path to surface and correct deficiencies in public programs in fulfilling certain language access requirements. OHR plans to gradually increase the number of audits of meritorious allegations, once OHR resources are available.

APPENDICES

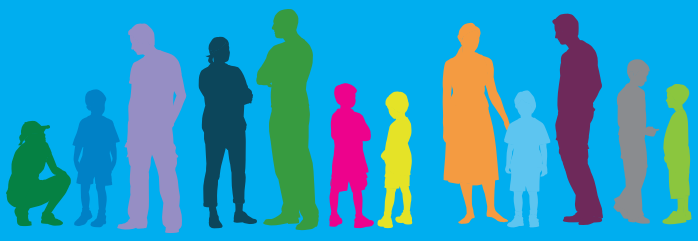

Table 1: Phased Implementation byFiscal Year and Agency

	Fiscal Year 2004
1	Department of Health
2	Department of Human Services
3	Department of Employment Services
4	Metropolitan Police Department
4	D.C. Public Schools
6	Office of Planning
7	Fire and Emergency Medical Services
8	Office of Human Rights
	Fiscal Year 2005
9	Department of Housing and Community Development
10	Department of Mental Health
11	Department of Motor Vehicles
12	Child and Family Services Agency
13	Alcoholic Beverage Regulation Administration
14	Department of Consumer and Regulatory Affairs
	Fiscal Year 2006
15	Department of Parks and Recreation
16	Office on Aging
17	D.C. Public Library
18	Department of Human Resources
19	Office of Contracting and Procurement
20	Department of Corrections
21	Department of Public Works
22	Office of Tax and Revenue
	Fiscal Year 2007
23	Office of the People's Counsel
24	D.C. Housing Authority
25	Homeland Security and Emergency Management Agency
	Fiscal Year 2008
26	Department of Disability Services
27	Department of Youth Rehabilitation Services
28	Department of Transportation
29	Office of Unified Communications
30	Department of the Environment
31	Office of the State Superintendent for Education
32	Department of Small and Local Business Development
33	Office of Zoning
34	Office of the Tenant Advocate
35	D.C. Lottery and Charitable Games Control Board

Table 2: FY 2011 Compliance Snapshot for the District

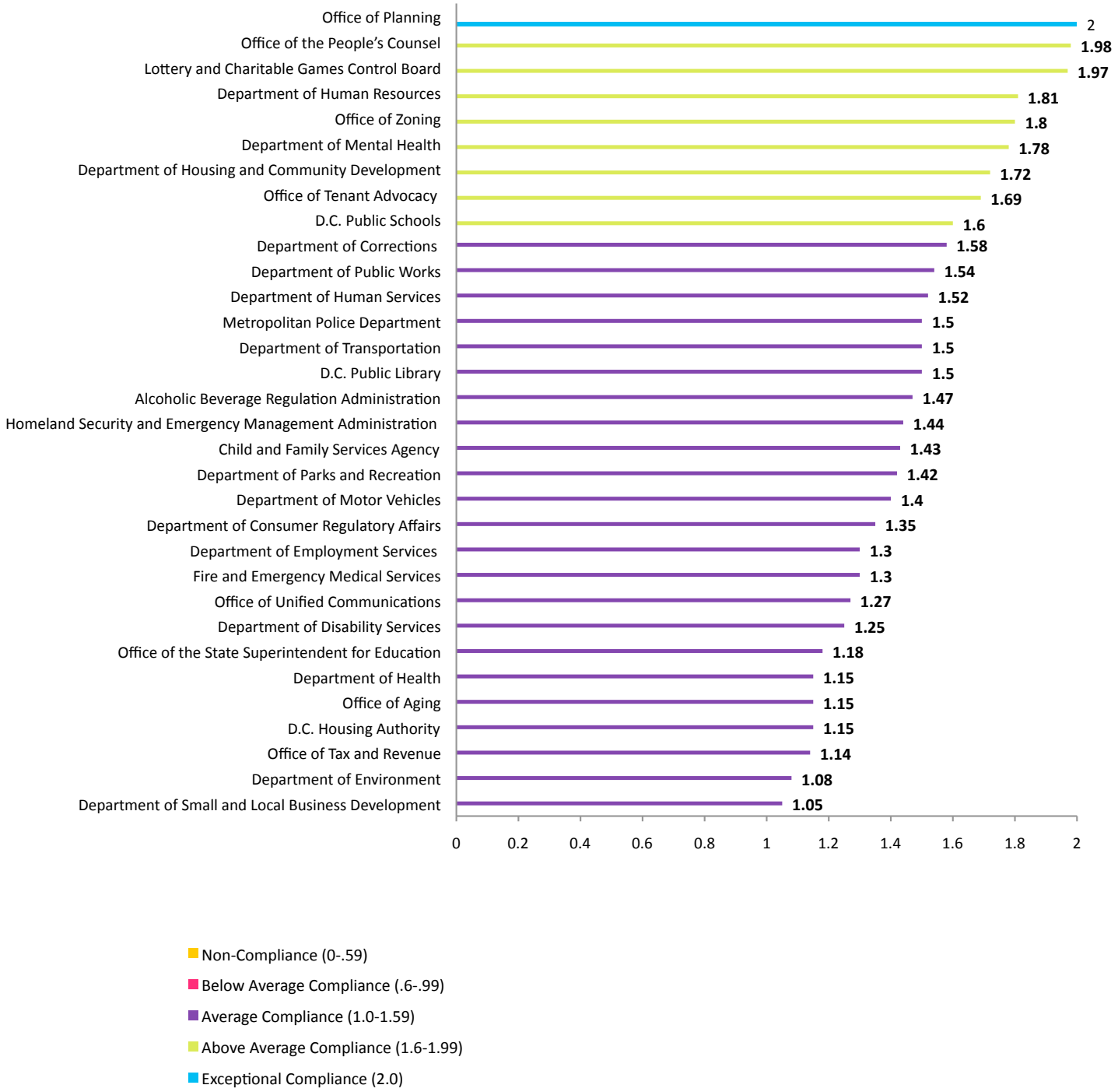

Table 3: Comparative Language Access Testing Results

IN-PERSON TEST RESULTS

AGENCY		FY 2009 OVERALL SCORE (6 possible points)	FY 2010 OVERALL SCORE (6 possible points)	FY 2011 OVERALL SCORE (6 possible points)
1	Office of State Superintendent for Education	4.8	4.9	6.0
2	Fire & Emergency Medical Services	4.8	3.5	6.0
3	Office of Tenant Advocacy	4.0	5.0	6.0
4	Department of Small Z& Local Business Development	3.7	3.8	6.0
5	Department of Housing & Community Development	5.2	5.4	6.0
6	Office of Zoning	5.2	5.0	6.0
7	Department of Human Resources	5.3	4.7	6.0
8	Department of Mental Health	4.9	3.9	6.0
9	D.C. Public Library	4.6	4.7	5.9
10	Department of Employment Services	3.8	4.8	5.5
11	Office of Tax and Revenue	5.0	4.6	5.5
12	D.C. Public Schools	4.1	3.6	5.4
AVERAGE		4.5	4.5	5.4
MEDIAN		4.5	4.6	5.4
13	Department of Human Services	4.0	4.0	5.3
14	Department of Motor Vehicles	4.1	4.5	5.2
15	Department of Consumer and Regulatory Affairs	4.5	4.3	5.2
16	Department of Environment	4.8	4.0	5.0
17	Alcoholic Beverage Regulation Administration	5.2	5.4	5.0
18	Metropolitan Police Department	4.3	4.7	5.0
19	Department of Transportation	3.7	4.3	5.0
20	Office of Aging	5.5	5.1	5.0
21	D.C Housing Authority	4.5	2.9	5.0
22	Department of Health	4.2	4.6	4.9
23	Department of Disability Services	4.8	3.6	4.5
24	Department of Parks and Recreation	4.0	4.2	3.8
25	Office of the People's Counsel	5.5	5.4	--
26	DC Lottery and Charitable Games Control Board	5.0	4.5	--
27	Office of Planning	4.4	5.0	--
28	Office of Contracting and Procurement	5.5	--	--
29	Child and Family Services Agency	4.6	--	--
30	Department of Corrections	3.8	--	--
31	Department of Public Works	3.2	--	--

Table 3: Comparative Language Access Testing Results

TELEPHONE TEST RESULTS

AGENCY		FY 2009 OVERALL SCORE (5.5 possible points)	FY 2010 OVERALL SCORE (5.5 possible points)	FY 2011 OVERALL SCORE (5.5 possible points)
1	Alcoholic Beverage Regulation Administration	4.1	3.5	5.5
2	D.C. Lottery and Charitable Games Control Board	2.8	4.7	5.5
3	Office of Planning	5.1	4.6	5.5
4	Office of People's Counsel	2.2	4.4	5.5
5	Homeland Security & Emergency Management Agency	4.3	4.9	4.6
6	Office of Zoning	4.6	4.7	4.5
7	Office of Unified Communications	4.0	5.3	4.5
8	Office of the Tenant Advocate	3.1	4.8	4.2
9	Metropolitan Police Department	2.4	2.6	4.1
10	Child and Family Services Agency	4.1	2.8	4.0
11	Department of Housing & Community Development	1.5	4.2	4.0
12	Department of Consumer and Regulatory Affairs	3.1	3.3	3.7
13	Department of Public Works	3.0	3.7	3.6
14	Department of Transportation	2.8	3.6	3.4
15	D.C. Public Library	3.0	4.6	3.2
AVERAGE		3.3	3.9	3.2
MEDIAN		3.2	3.9	3.2
16	D.C. Public Schools	3.5	2.7	3.1
17	Fire and Emergency Medical Services	3.4	4.4	3.1
18	Department of Human Services	3.8	3.8	3.0
19	Department of Corrections	3.1	3.9	2.3
20	Department of Employment Services	1.8	1.7	2.3
21	Department of Health	2.4	4.2	2.1
22	Office on Aging	4.3	5.1	2.0
23	Department of Small & Local Business Development	3.3	2.4	1.9
24	Office of State Superintendent for Education	2.9	2.7	1.9
25	Department of Disability Services	4.0	3.0	1.8
26	Office of Tax and Revenue	2.1	3.9	1.4
27	D.C. Housing Authority	2.4	3.1	0.8
28	Department of Parks and Recreation	2.2	2.7	0.8
29	Department of Environment	2.7	2.2	0.0
30	Office of Contracting and Procurement	5.5	5.3	--
31	Department of Human Resources	5.3	4.4	--
32	Department of Mental Health	2.5	4.5	--

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