

**Testimony of Jennifer Hatton  
Staff Attorney, Legal Aid Society of the District of Columbia<sup>1</sup>**

**Before the Committee on Public Safety and the Judiciary,  
Council of the District of Columbia**

**Agency Performance Oversight Hearing on Fiscal Year 2009 – 2010 Budget**

**March 19, 2010 – 10:00 A.M.**

**Introduction**

My name is Jennifer Hatton, and I am here to testify about the critical need for the Office of Administrative Hearings (“OAH”) to improve the way it provides linguistically accessible services to the residents of the District of Columbia. The Legal Aid Society of the District of Columbia serves a diverse group of individuals, many of whom are limited English proficient (“LEP”) or no-English proficient (“NEP”). Whether appealing the denial of a food stamps application, the termination of a housing subsidy, or any number of other issues that affect individuals living in poverty, many of Legal Aid’s clients rely upon OAH’s services for the preservation of vital government benefits.

In the past year, we have observed, and some of our clients have experienced, significant language barriers at OAH. These barriers include failure to communicate with an LEP individual who tried to get more information from OAH’s frontline staff, reliance on telephonic interpretation for hearings involving LEP/NEP litigants, and the failure to translate notices and other important court documents for LEP/NEP litigants. Another point of concern is the apparent lack of clarity around OAH’s legal responsibility to provide linguistically accessible services.

In partnership with the DC Language Access Coalition (“Coalition”), of which Legal Aid is an active member, we recently reached out to Chief Judge Mary Oates Walker to introduce the Coalition, raise our concerns about the accessibility of OAH’s services, and address the question of OAH’s legal obligations to provide linguistically accessible services. Chief Judge Walker only recently received our letter and has not yet had an opportunity to respond to our concerns. Given how recently she took the helm of OAH, we certainly mean no criticism of her when we raise these issues. Indeed, we look forward to working with her and her staff to make OAH’s services more accessible over the coming year.

**Language access barriers**

OAH has much room to improve its provision of linguistically accessible services. Our primary concerns appear below.

---

<sup>1</sup> The Legal Aid Society was formed in 1932 to “provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs.” Legal Aid provides assistance in public benefits, housing, family law, and consumer law matters.

First, LEP/NEP individuals need to be able to access OAH's services over the phone or in person. If an LEP/NEP individual seeks to request a fair hearing or file a motion or simply get directions to OAH, he or she needs to be able to communicate effectively with OAH's frontline staff. With basic training on the use of Language Line or other telephonic interpreter services, staff should be able to provide these services with ease. On one occasion, however, a Legal Aid attorney witnessed an LEP individual trying to get information from OAH staff, but the staff member could not communicate with the LEP individual and did not secure interpreter services to facilitate the communication.

The need for training on the use of Language Line notwithstanding, a second point of concern is OAH's policy of relying on telephonic interpretation, instead of in-person interpretation, for OAH hearings. In one case, for example, OAH denied our request for live interpretation for a hearing involving LEP/NEP parties who speak several different languages. While telephonic interpretation is a useful tool for providing immediate interpretation in situations where an in-person interpreter cannot be secured efficiently, it should not be the default resource for scheduled hearings. Telephonic interpreters are not necessarily specialists in legal interpretation, poor telephone connections may result in miscommunications or inefficiency, and the lack of a face-to-face connection precludes the perception of non-verbal cues.

Third, LEP/NEP litigants must get important notices, instructions, forms, and orders from OAH in their preferred language. Some of Legal Aid's clients have received important notices, such as notices of hearing dates, in English and have not understood the contents of these notices. LEP/NEP litigants cannot reasonably be expected to exercise their rights or comply with OAH's procedures if they are unable to understand the documents notifying them of these rights and procedures.

### **OAH's legal responsibility to provide linguistically accessible services**

One possible explanation for OAH's problems with providing language services is that OAH may take the position that it is not obligated to do so under the law. The DC Language Access Act of 2004 ("Act") requires all District government agencies, departments, or programs that furnish information or render services directly to the public to provide linguistically accessible services. D.C. Code § 2-1931(2). Specifically, covered entities are required to provide free oral interpreter services to all LEP/NEP individuals, regardless of language spoken, and free written translation of vital documents to LEP/NEP groups that constitute 3% or 500, whichever is less, of the population served or encountered, or likely to be served or encountered, by the covered entity. *Id.* at § 2-1931(6) – (7). Nothing in the Act exempts OAH from coverage; yet, to our knowledge, OAH has not thus far considered itself subject to the Act, perhaps under the (mistaken) theory that it is a "court," not a government agency.

We look forward to discussing this issue with Chief Judge Walker in an effort to clarify OAH's legal responsibilities. Perhaps more importantly, though, we are eager to work with her and her staff to help OAH develop solutions to its existing language access problems. We would appreciate the Council's support of Chief Judge Walker as she strives to implement these changes and make OAH's services more accessible to the LEP/NEP community.