

Dymally-Alatorre Bilingual Services Act

State Agencies Do Not Fully Comply With the Act, and Local Governments Could Do More to Address Their Clients' Needs

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This report concludes that the State Personnel Board (Personnel Board) is not meeting most of its responsibilities under the Dymally-Alatorre Bilingual Services Act (Act). The Personnel Board has not informed all state agencies of their responsibilities under the Act and has not ensured that state agencies conduct language surveys to assess their clients' language needs. In addition, the Personnel Board does not obtain necessary information from state agencies that would allow it to evaluate their compliance with the Act and does not order deficient agencies to take the necessary actions to ensure they have sufficient qualified bilingual staff and translated written materials to address the language needs of their substantial populations of limited-English-proficient (LEP) clients. Moreover, the Personnel Board's complaint process needs improvement because it does not ensure that complaints are resolved in a timely manner and its report to the Legislature does not adequately address whether state agencies are complying with the Act.

We also found that state agencies are not fully complying with the Act. Although nine of the 10 agencies we reviewed conducted language surveys in 2008, four reported inaccurate survey results for one or more of their local offices, and two did not have sufficient documentation to support their survey results. In addition, only one of the state agencies we reviewed formally analyzed its survey results to determine whether the use of other available options, in addition to qualified bilingual staff in public contact positions, was serving the language needs of its clients as the Act requires. Further, none of the state agencies we reviewed had adequate procedures in place to determine whether they met the Act's requirements to translate certain written materials for their substantial LEP populations. Furthermore, most of the state agencies we reviewed have not developed plans to address their staffing deficiencies and translated written materials deficiencies. We also found that some state agencies are not maximizing opportunities to reduce their costs of providing bilingual services by leveraging existing state contracts for interpretation and translation services.

Finally, our survey of local government administrators and department managers in 25 counties and cities throughout California found that some are not fully addressing their clients' bilingual needs. As a result, their clients may not be receiving the government services to which they are entitled.

In the report, the California State Auditor (state auditor) made the following recommendations to the Personnel Board and other state and local agencies. The state auditor's determination regarding the current status of recommendations is based on the 11 audited state agencies' and three local agencies' responses to the state auditor as of November 2011.

Recommendation 1.1—See page 17 of the audit report for information on the related finding.

To ensure that all state agencies subject to the Act are aware of their potential responsibilities to provide bilingual services, the Personnel Board should improve its processes to identify and inform all such state agencies of the Act's requirements.

Personnel Board's Action: Fully implemented.

The Personnel Board used the Department of Finance's Uniform Codes Manual to create a comprehensive state agency listing and has developed procedures to ensure that all state agencies are properly notified of the Act's requirements.

Recommendation 1.2—See pages 17—19 of the audit report for information on the related finding.

The Personnel Board should make certain that every state agency required to comply with the Act conducts language surveys and submits implementation plans unless the Personnel Board exempts them from these requirements. The Personnel Board should also ensure that it adheres to the specific criteria contained in the Act when exempting agencies from conducting language surveys or preparing implementation plans.

Personnel Board's Action: Fully implemented.

The Personnel Board developed a system to track state agencies' participation in the language survey and implementation plan processes. The Personnel Board also incorporated accurate exemption language, as specified in the Act, into the forms for the language survey and implementation plan and instituted a tracking mechanism and review process for each exemption approval to reduce the risk of error.

Recommendation 1.3—See pages 19—20 of the audit report for information on the related finding.

The Personnel Board should require state agencies to provide all of the information required by the Act. For example, the Personnel Board should ensure that state agencies identify their deficiencies in staffing and translated written materials and that the state agencies' implementation plans detail sufficiently how and when they plan to address these deficiencies. In addition, the Personnel Board should assess the adequacy of state agencies' language surveys and implementation plans. If it determines that implementation plans do not address deficiencies in staffing or written materials adequately, the Personnel Board should order the agencies to revise or supplement their plans accordingly. The Personnel Board should also require state agencies to report to it every six months on their progress in addressing their deficiencies. If the Personnel Board determines that state agencies have not made reasonable progress toward complying with the Act, we recommended that it consider ordering them to comply with the Act. These actions could include ordering state agency officials to appear before the Personnel Board to explain why their agencies have not complied. If these actions or its other efforts to enforce the Act are ineffective, the Personnel Board should consider asking a court to issue writs of mandate under Section 1085 of the Code of Civil Procedure, to require agencies to perform their duties. Finally, we recommended that the Personnel Board seek enough additional staff to fulfill its obligations under the Act, or seek changes to the Act that would reduce its responsibilities and make them commensurate with its staffing levels.

Personnel Board's Action: Fully implemented.

The Personnel Board revised its forms to capture all of the information required by the Act. In addition, the Personnel Board has developed procedures to assess the adequacy of state agencies' language surveys and implementation plans, which includes evaluating the status of agencies' corrective action plans for addressing deficiencies in bilingual staffing and written materials. If it determines that agencies' corrective action plans do not adequately address deficiencies, the Personnel Board now requires such agencies to revise their plans accordingly. In addition, the Personnel Board requires deficient agencies to submit six-month progress reports. Further, the Personnel Board revised its procedures to invite nonexempt state agencies that do not submit language surveys or implementation plans to explain their noncompliance to its five-member board. Finally, the Personnel Board's bilingual services unit secured three student assistants to assist with its workload.

Legislative Action: Legislation introduced.

Assembly Bill 305 (as amended March 17, 2011) of the 2011-12 Regular Legislative Session would revise provisions relating to determining if there is a substantial number of non-English speaking people served by a state office and to expand the Personnel Board's reporting requirements under the Act.

Recommendation 1.4—See page 20 of the audit report for information on the related finding.

The Personnel Board should follow up with the responsible state agencies to ensure that the agencies resolve the language access complaints it receives in a timely manner.

Personnel Board's Action: Fully implemented.

The Personnel Board revised its bilingual services program's procedures to incorporate additional fields to its tracking system to capture the date that a complaint was resolved and how it was resolved.

Recommendation 1.5—See pages 21 and 22 of the audit report for information on the related finding.

The Personnel Board should improve the content of its biennial report to the Legislature to identify problems more clearly and to propose solutions where warranted. Specifically, the report should clearly indicate whether state agencies have true staffing deficiencies or deficiencies in translated materials. In addition, the report should identify any agencies that are not complying with the Act and should present key survey and implementation plan results by state agency and field office to better inform policymakers and the public about the language needs of residents in certain areas of the State and about state agencies' available resources to meet those needs.

Personnel Board's Action: Pending.

The Personnel Board's next biennial report is not scheduled for release until March 2012. However, it stated that it will revise the format and content of that report and all subsequent reports to reflect more comprehensive and meaningful data.

Recommendation 2.1—See pages 26—30 of the audit report for information on the related finding.

To ensure that they meet their constituents' language needs, state agencies should make certain that they accurately assess and report their clients' language needs to the Personnel Board. State agencies should also analyze formally their language survey results and consider other available bilingual resources to determine their true staffing deficiencies. Further, state agencies should establish procedures to identify the written materials that the Act requires them to translate into other languages and ensure that such materials are translated or made accessible to the agencies' LEP clients. Finally, state agencies should develop detailed corrective action plans describing how and when they will address their staffing and written materials deficiencies. In addition, they should submit their corrective action plans to the Personnel Board as part of the state agencies' overall implementation plans.

California Emergency Management Agency's Action: Fully implemented.

The California Emergency Management Agency (Emergency Management) developed procedures to help ensure the accuracy of its biennial language surveys. Emergency Management also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Emergency Management's language survey indicated that it did not have any staffing or written materials deficiencies. In addition, Emergency Management's implementation plan described its procedures for identifying the written materials that the Act requires it to translate into other languages and how it ensures such materials are translated or made accessible to its LEP clients. Finally, Emergency Management also provides an option on its Web site that allows LEP clients to translate its Web site content into numerous other languages.

California Highway Patrol's Action: Fully implemented.

The California Highway Patrol (Highway Patrol) stated that it will continue to assess its clients' language needs and to report accurate information to the Personnel Board. Highway Patrol also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Highway Patrol also formally analyzed its language survey results and determined that it had no true staffing deficiencies. In addition, it established procedures for identifying written materials that the Act requires it to translate into other languages and a process for monitoring its compliance with this requirement. Finally, Highway Patrol developed a detailed corrective action plan describing how and when it will address its written materials deficiencies.

Department of Corrections and Rehabilitation's Action: Pending.

The Department of Corrections and Rehabilitation (Corrections) reported that it has made progress in several areas to address our recommendations. For example, Corrections stated that it is developing a bilingual coordinator manual and a language services manual for its staff to use as a resource. Corrections indicated that it is also developing criteria and an evaluation tool which it will use to evaluate future language survey results. In addition, Corrections stated that it is developing a mechanism to monitor and report translated written materials and to ensure the accessibility of such materials. Corrections also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011, reporting that it did not have any true staffing deficiencies or written materials deficiencies.

Department of Food and Agriculture's Action: Partially implemented.

The Department of Food and Agriculture (Food and Agriculture) participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Food and Agriculture reported that its bilingual services program coordinator reviewed all the tally sheets from every participating division to make sure that the information gathered and reported would yield accurate survey results. Food and Agriculture also formally analyzed its language survey results and its implementation plan included a corrective action plan describing how it will address its true staffing deficiencies. However, Food and Agriculture acknowledged that it is still in the process of developing standard procedures for identifying written materials that require translation.

Department of Housing and Community Development's Action: Fully implemented.

The Department of Housing and Community Development (Housing) reported that beginning with the 2010 biennial language survey, it assigned responsibility for the survey to its equal employment opportunity officer, who also serves as its bilingual services program coordinator. This individual is responsible for coordinating, implementing, and overseeing the language survey, analyzing completed survey tally sheets, reporting the results of the analysis to the Personnel Board, and maintaining sufficient documentation. Housing also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. In addition, Housing formally analyzed its language survey results and established procedures for identifying written materials that require translation. Finally, Housing's implementation plan included a corrective action plan describing how it will address its staffing and written materials deficiencies.

Department of Justice's Action: Fully implemented.

The Department of Justice (Justice) reported that it appointed a new bilingual services program coordinator to monitor the program, the biennial language survey, and the subsequent implementation plan. Justice also indicated that it has adopted and implemented new procedures that provide a higher level of quality control regarding reviewing and analyzing the language survey data in order to avoid future reporting errors. Justice also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. In addition, Justice formally analyzed its language survey results and determined that it had no true staffing deficiencies. Justice also established procedures for identifying written materials that require translation and its implementation plan included a corrective action plan describing how it will address its deficiencies in written materials. Finally, Justice also provides an option on its Web site that allows LEP clients to translate its Web site content into numerous other languages.

Department of Motor Vehicles' Action: Fully implemented.

The Department of Motor Vehicles (Motor Vehicles) participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Motor Vehicles reported that it implemented improved procedures and incorporated additional checks and balances for the 2010 language survey to ensure that it accurately assessed and reported its LEP clients' language needs to the Personnel Board. In addition, Motor Vehicles formally analyzed its language survey results

and established procedures for identifying written materials that require translation. Finally, Motor Vehicles' prepared a corrective action plan describing how and when it will address its staffing and written materials deficiencies.

Department of Public Health's Action: Fully implemented.

The Department of Public Health (Public Health) reported that it will continue to ensure that it accurately assesses and reports its clients' language needs to the Personnel Board. Public Health participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Public Health formally analyzed its language survey results and established procedures for identifying written materials that require translation. In addition, Public Health prepared a corrective action plan describing how and when it will address its staffing and written materials deficiencies.

Department of Toxic Substances Control's Action: Fully implemented.

The Department of Toxic Substances Control (Toxic Substances Control) reported that it would continue to accurately assess and report its clients' language needs to the Personnel Board. Toxic Substances Control participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. In addition, it established procedures for identifying written materials that require translation and formally analyzed its language survey results, concluding that it did not have any staffing or written materials deficiencies.

Employment Development Department's Action: Partially implemented.

The Employment Development Department (Employment Development) participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Employment Development reported that it designed and implemented corrective actions for the 2010 language survey to ensure it collected all hard-copy documentation from all public contact employees so there would be no questions about the accuracy of data provided to the Personnel Board. In addition, Employment Development stated that it added controls over data collection, tabulation, and submission so that all information could be traced back to hard copy documentation. Employment Development also formally analyzed its language survey results and its implementation plan included a corrective action plan describing how it would address its true staffing deficiencies. However, Employment Development has not yet finalized a policy that contains provisions for ensuring that applicable written materials are translated into other languages as required by the Act.

Recommendation 2.2—See pages 31 and 32 of the audit report for information on the related finding.

State agencies should leverage the Department of General Services' (General Services) and the Personnel Board's contracts for interpretation and translation services to potentially reduce the costs of providing bilingual services.

Emergency Management's Action: Fully implemented.

Emergency Management reported that when it determines a need for translation and interpreter services which cannot be provided by one of its certified bilingual employees, it will utilize General Services' list of California Multiple Award Schedules (CMAS) vendors and consult with the Personnel Board.

Highway Patrol's Action: Fully implemented.

Highway Patrol reported that it complies with this recommendation and will continue to negotiate the lowest possible rates for bilingual services while ensuring quality deliverables.

Corrections' Action: Fully implemented.

Corrections indicated that it will routinely refer to General Services' and the Personnel Board's leveraged procurement agreements when bilingual service requests are within the ordering allowances for those contracts. In such instances, Corrections will utilize these agreements when they meet its specific business needs.

Food and Agriculture's Action: Fully implemented.

Food and Agriculture reported that it has explored General Services' CMAS and the Personnel Board's language service providers for cost effective translation, American Sign Language interpretation, and bilingual staff certification services.

Housing's Action: Fully implemented.

In an effort to achieve the best service at the lowest cost possible, Housing reported that its equal employment opportunity officer contacted the Personnel Board to obtain information and pricing on its bilingual services contracts, and compared those prices to the rates of the CMAS and other vendors that it currently uses for its bilingual services needs.

Justice's Action: Fully implemented.

Justice reported that it explored the state auditor's recommendation to leverage General Services' and the Personnel Board's contracts and found its current provider's services to be the most cost effective.

Motor Vehicles' Action: Fully implemented.

Motor Vehicles reported that it already complies with this recommendation, and therefore, no further action is required.

Public Health's Action: Fully implemented.

Public Health agrees that state agencies should leverage General Services' and the Personnel Board's contracts for interpretation and translation services to potentially reduce the costs of providing bilingual services. Public Health reported that it developed seven, two-hour training classes to educate its staff on various elements of the contracting and procurement process. It indicated that the fifth class in this series provides information on available leveraged procurement agreements, including General Services' and the Personnel Board's contracts for bilingual services. Public Health reported that it held the initial fifth class in October 2011, and it will repeat this training every 14 weeks.

Toxic Substances Control's Action: Fully implemented.

Toxic Substances Control reported that it conducted a formal analysis of General Services' and the Personnel Board's contracts to potentially reduce its costs of providing bilingual services. Based on this analysis, it has decided to obtain a new contract for bilingual services through the CMAS process.

Employment Development's Action: Fully implemented.

Employment Development reported that it leverages all of General Services' master and statewide contracts, including CMAS contracts, when appropriate for use. However, Employment Development stated that before contracting out for personal services with a private vendor, as is available through CMAS, it first considers an agreement with another state agency.

Recommendation 2.3—See pages 33 and 34 of the audit report for information on the related finding.

Public Health and Corrections should develop procedures to detect and prevent contract splitting.

Corrections' Action: Pending.

Corrections reported that it is in the process of developing policies, procedures, and training materials to detect and prevent contract splitting. In the interim, its office of business services will review all incoming service orders to determine if existing contracts can satisfy these requests or if there are multiple requests pending for the same services.

Public Health's Action: Fully implemented.

Public Health reported that it developed seven training classes to educate its staff on the elements of the state's procurement and contracting process. It indicated that the first class in this series covered general procurement and contracting policies, including those governing service orders and the limitations on their use. Public Health reported that it held the initial class in July 2011, and it will repeat this training every 14 weeks. Public Health believes that these classes will enhance its adherence to its service order policies and mitigate the risk of future contract splitting.

Recommendation 3.1—See pages 42 and 43 of the audit report for information on the related finding.

The cities of Fremont, Santa Ana, and Garden Grove should consider establishing complaint processes through which the public can report the absence of bilingual services or resources.

City of Fremont's Action: Fully implemented.

The City of Fremont developed a language access policy explaining how its clients can request language services and how they can complain if they feel these services are inadequate. The policy is available in multiple languages on the City's Web site.

City of Santa Ana's Action: Fully implemented.

The City of Santa Ana (Santa Ana) implemented a citywide bilingual complaint process. Santa Ana reported that each of its departments has a bilingual services representative available to respond to complaints or questions. It reported that information on the complaint process, along with bilingual services complaint forms, are available in several languages at all of its public counters and on the City's Web site.

City of Garden Grove's Action: Fully implemented.

The City of Garden Grove (Garden Grove) developed bilingual assessment and complaint procedures and a language barrier reporting form in November 2011. Garden Grove reported that this information will be made available to the public in all four of Garden Grove's major languages (English, Vietnamese, Spanish, and Korean) in all of its facilities and on its Web site.