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**OAKLAND CITY COUNCIL**

ORDINANCE NO. 12324 C.M.S.

INTRODUCED BY COUNCILMEMBER DE LA FUENTE AND WAN



**EQUAL ACCESS TO SERVICES**

**AN ORDINANCE ESTABLISHING EQUAL ACCESS TO CITY SERVICES AND PROGRAMS BY REQUIRING CITY DEPARTMENTS TO OFFER BILINGUAL SERVICES AND MATERIALS IF A SUBSTANTIAL PORTION OF THE PUBLIC UTILIZING CITY SERVICES DOES NOT SPEAK ENGLISH EFFECTIVELY BECAUSE IT IS NOT THEIR PRIMARY LANGUAGE**

**WHEREAS**, the City Council wishes to establish a form of government that is truly inclusive of all its residents, and

**WHEREAS**, the City of Oakland is committed to the delivery of effective, courteous and responsive services, and

**WHEREAS**, California Government Code Section 7290, also known as the Dymally-Altorre Bilingual Services Act, requires that every local public agency serving a substantial number of non-English speaking people, employ a sufficient number of qualified bilingual persons in public contact positions, and

**WHEREAS**, the City Council finds and determines that the public safety, health, convenience, comfort, property, and general welfare will be furthered by the provisions of this Ordinance which establishes standards and procedures with respect to access to City programs and services by residents who are not fluent in English, now therefore,

**THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

Section 1. Findings and Purpose. The Oakland City Council hereby finds and declares that substantial numbers of persons who live, work, and pay taxes in Oakland are unable to communicate effectively in English because their primary language is not English. It is of paramount importance that all residents regardless of their proficiency in English have access to City programs and services. This Ordinance establishes standards and procedures for providing equal access to city services and programs to all Oaklanders, including those with limited proficiency in English. This Ordinance is consistent with and supplements California's Dymally-Alatorre Bilingual Services Act, Government Code 7290 *et seq.*, which requires state and local public agencies serving a substantial number of limited English-speaking people to provide services and materials in the language(s) spoken by those persons.

Section 2. Chapter 2.30 "Equal Access to Services" is added to the Oakland Municipal Code to read as follows:

## CHAPTER 2.30

### EQUAL ACCESS TO SERVICES

- Sec 2.30.010 Title
- Sec 2.30.020 Definitions
- Sec 2.30.030 Equal Access to Services
- Sec 2.30.040 Bilingual Staffing
- Sec 2.30.050 Translation of Materials
- Sec 2.30.060 Dissemination of Translated Materials from the State and Federal Government
- Sec 2.30.070 Public Meetings and Hearings
- Sec 2.30.080 Recorded Telephonic Messages
- Sec 2.30.090 Complaint Procedures
- Sec 2.30.100 Compliance Plans
- Sec 2.30.120 Recruitment
- Sec 2.30.130 Monitoring and Structure
- Sec 2.30.140 Rules and Regulations
- Sec 2.30.150 Enforcement
- Sec 2.30.160 Severability

**SEC. 2.30.010 TITLE.** This chapter shall be known as the "Equal Access to Services Ordinance".

**SEC. 2.30.020 Definitions.** As used in this Chapter, the following capitalized terms shall have the following meanings:

- (a) "Agency" shall mean any of the following: Community and Economic Development Agency, Financial Services Agency, Fire Services Agency, Life Enrichment Agency, Police Services Agency, Public Works Agency, Office of Retirement and Risk Assessment, Office of Personnel Resource Management, Office of Information Technology, Office of Arts and Cultural Affairs, Office of the City Attorney, Office of the City Auditor, Office of the City Clerk, Office of the City Council, Office of the City Manager, Office of the Mayor, Port of Oakland and such other agencies as the City Manager may designate.
- (b) "Bilingual Employee" shall mean a City employee who is proficient in the English language and a language other than English that is spoken by not less than 10,000 Limited English Speaking Persons who are Oakland residents.
- (c) "City" shall mean the City of Oakland.
- (d) "Substantial Number of Limited English Speaking Persons Group" or "Group" shall mean at least 10,000 limited English speaking City residents who speak a shared language other than English. The City Planning Department shall determine annually whether at least 10,000 limited English speaking City residents speak a shared language other than English by referring to the best available data from the United States Census

Bureau or another reliable source and shall certify its determination to the City Manager no later than December 1 of each year.

- (e) "Departments" shall mean both Tier 1 Departments and Tier 2 Departments."
- (f) "Limited English Speaking Person" shall mean an individual who does not speak English well or is otherwise unable to communicate effectively in English because English is not the individual's primary language.
- (g) "Public Contact Position" shall mean a position, whether of a clerical, service, professional or sworn nature, that emphasizes greeting, meeting, contact, or provision of information and/or services to the public in the performance of the duties of that position.
- (h) "Phase 1" shall mean during Fiscal Year 2001-2002
- (j) "Phase 2" shall mean during Fiscal Year 2002-2003
- (k) "Tier 1 Departments" shall mean the following City Departments, Divisions, or Agencies: Office of the City Attorney-Claims Division; Office of the City Clerk; City Council Reception Desk; Mayor's Office Reception Desk; Oaklanders Assistance Center; Office of Personnel Resources Management; Inspection Services/Code Enforcement (Blight Abatement); Building Permit Processing; Zoning Counter; One Stop Capital Shop; Residential Lending; Rent Arbitration; Neighborhood Commercial Revitalization; Parking Citation; Business License/Tax; Fire Services-Inspections Unit; Fire Services-911 Dispatch; Firehouses; Life Enrichment Agency-Administrative Office; Recreation Centers; Senior Centers; Head Start; Library Services; Police Services-Internal Affairs; Police Beats; Abandoned Car Removal; Neighborhood Services Coordinators; Community Policing; Police Services-911 Dispatch; Police Services-Records Division; Police Services-Patrol Desk; Police Services-Traffic Division; Animal Control; Public Works Agency-Administration; Illegal Dumping Hotline; Garbage Services; Street Lighting Repair; Street Sweeping; Traffic Engineering. and such other departments as the City Manager may designate.
- (l) "Tier 2 Departments" shall mean all City Agencies, Departments, or Divisions not specified as Tier 1 Departments that furnish information or provide services to the public and consist of at least 15 full-time City employees.
- (m) "Sufficient Bilingual Employees" shall mean the number of employees required to provide the same level of services to Limited English Speaking Persons as is available to English-speaking persons seeking any city services.

### **SEC. 2.30.030 Equal Access to Services.**

(a) Utilizing sufficient Bilingual Employees in Public Contact Positions, Departments shall provide information and services to the public in each language spoken by the Substantial Number of Limited English Speaking Persons Group(s). Departments comply with their obligations under this Section if they provide the same level of service to members of the Substantial Number of Limited English Speaking Persons Group(s) as they provide English speakers.

(b) Nothing herein shall be construed to authorize or require the termination, demotion, or transfer of any City of Oakland employee in order to carry out this Ordinance.

(c) This article shall be interpreted and applied so as to be consistent with Title VII of the Civil Rights Act of 1964, California's Fair Employment and Housing Act, Americans with Disabilities Act, and any article of the City of Oakland's Charter and so as not to impede or impair the City's obligations to comply with any court order or consent decree.

**SEC. 2.30.040 Bilingual Staffing.**

(a) During Phase I, Tier 1 Departments will hire a sufficient number of Bilingual Employees in Public Contact Positions so as to adequately serve members of the Substantial Number of Limited English Speaking Persons Group(s) in the City of Oakland. The City Manager will determine the adequacy of service to members of the Group(s) upon review of each Department's compliance plan.

(b) Senior Centers, Recreation Centers and Neighborhood Services Coordinator positions located in areas with a significant concentration of a Substantial Number of Limited English Speaking Persons Group(s) shall be staffed by a sufficient number of Bilingual Employees.

(c) Firehouses and Police Beats located in areas with a significant concentration of a Substantial Number of Limited English Speaking Persons Group(s) shall be staffed by a sufficient number of Bilingual officers and firefighters.

(c) During Phase II, Tier 2 Departments will hire a sufficient number of bilingual employees in Public Contact Positions so as to adequately serve members of the Substantial Number of Limited English Speaking Persons Group(s) in the City of Oakland. The City Manager will determine the adequacy of service to members of the Group(s) upon review of each Department's compliance plan.

(d) Upon passage of this Ordinance, all new hires for vacant Public Contact Positions in Tier One or Tier Two shall be reviewed and approved by the City Manager until a compliance plan is submitted to and approved by the City Council. The plan will be presented to the Finance and Management Committee of the City Council, or such other committee as the Council may hereafter designate, before it is forwarded to the full City Council for approval.

(e) Notwithstanding any other provision hereof, in carrying out this Ordinance, Sufficient Bilingual Employees will be hired in accordance with Compliance Plans and meet and confer obligations into current and future vacancies for Public Contact Positions.

(f) The City will comply with any meet and confer obligations with unions representing City employees.

**SEC. 2.30.050 Translation of Materials.**

(a) The City Manager shall establish an in house translation service with court certified or American Translators Association accredited translators for the purpose of translating written materials for city departments and providing translations for public meetings as needed or professional services may be contracted out to an accredited translation contractor.

(b) Tier 1 Departments shall translate the following written materials that provide vital information to the public about the Department's services or programs into the language(s) spoken by the Substantial Number of Limited English Speaking Persons Group(s):

- (1) written materials disseminated to the public including, but not limited to, brochures, outreach materials and;
- (2) applications or forms to participate in a Department's program or activity or to receive its benefits or services;
- (3) written notices of fines or rights to, determination of eligibility of, award of, denial of, loss of, or decrease in a benefit, city service or program, including the right to appeal any Department's decision;
- (4) written tests that do not assess English language competency, but test competency for a particular license or skill for which knowledge of written English is not required;
- (5) notices advising limited English-proficient persons of free language assistance;

- (6) materials explaining a Department's services or programs
  - (7) complaint forms; or
  - (8) Any other written documents that have the potential for determining eligibility for, or access to, services from, or participating in, a program of a city department.
- (c) Tier 2 Departments shall translate all publicly posted documents that provide information (1) regarding Department services or programs, or (2) affecting a person's rights to, determination of eligibility of, award of, denial of, loss of, or decreases in benefits or services into language(s) spoken by the Substantial Number of Limited English Speaking Persons Group(s).
- (d) Departments required to translate materials under the provisions of this Section shall post notices in the public areas of their facilities in the languages of the Substantial Number of Limited English Speaking Persons Group(s) indicating that written materials in the languages, and staff who speak the languages, are available. The notices shall be posted prominently and shall be readily visible to the public.
- (e) Departments required to translate materials under the provisions of this Section shall ensure that their translations are made by a certified translator and that materials are accurate and appropriate for the target audience. Translations should match literacy levels of the target audience. Departments are encouraged to solicit feedback on the accuracy and appropriateness of translations from bilingual staff at community groups whose clients receive services from the Department.
- (f) Departments shall comply with the requirements of this Section within 180 days of the enactment of this Article.

**SEC. 2.30.060 Dissemination of Translated Materials from State and Federal Government.** If the State or Federal government or any agency thereof makes available to a Department written materials in a language other than English, the Department shall maintain an adequate stock of the translated materials and shall make them readily available to persons who use the Department's Services.

**SEC. 2.30.070 Public Meetings and Hearings.**

- (a) City Commissions and Departments shall not be required to translate meeting notices, agendas, or minutes.
- (b) Oral interpretation of any public meeting or hearing held by a City commission or Department shall be provided if requested at least 48 hours in advance of the meeting or hearing in question.

**SEC. 2.30.080 Recorded Telephonic Messages.**

All Departments shall maintain recorded telephonic messages in each language spoken by the Substantial Number of Limited English Speaking Persons Group(s). The message shall contain basic information about the Department's operation including, at a minimum, business hours, location(s), services offered and the means of accessing such services, and the availability of language assistance.

**SEC. 2.30.090 Complaint Procedures.**

(a) Departments shall allow persons to make complaints alleging violation of this Article to the Department in each language spoken by the Substantial Number of Limited English Speaking Persons Group(s). The complaints may be made by telephone or by completing a complaint form.

(b) Departments shall document actions taken to resolve each complaint and maintain copies of complaints and documentation of their resolution for a period of not less than two (2) years. A copy of each complaint shall be forwarded to the City Manager within 30 days of its receipt. The City Manager shall furnish a report to the City Council every six months regarding the number, nature and status of complaints. The report shall be presented to the Finance and Management Committee of the Council or such other committee as the Council may designate before it is forwarded to the City Council.

**SEC. 2.30.100 Compliance Plan.**

(a) By June 1 of each year, the City Manager shall submit to the City Council an annual compliance plan. Each

(b) Each plan filed by the City Manager shall contain the following information:

- (1) The number and languages of the Limited English Speaking Group
- (2) The number of Public Contact Positions in each Department covered by this Ordinance, listed by job title.
- (3) The number of Bilingual Employees in Public Contact Positions, their titles, office locations, and the language(s) other than English that the persons speak;
- (4) A numerical assessment of the additional Bilingual Employees in Public Contact Positions needed to meet the requirements of Section 2.30.030 of this Article;
- (5) If assessments indicate a need for additional Bilingual Employees in Public Contact Positions to meet the requirements of Section 2.30.030 of this Article, a description of each Department's plan for filling the positions, including the number of estimated vacancies in Public Contact Positions, and a brief narrative describing the methods or means employed to ensure a pool of qualified bilingual applicants, and a brief narrative describing the method of processing each qualified applicant, including the methods used to assess language skills.
- (6) A list of all Public Contact Positions filled during the current fiscal year, a list of those Public Contact Positions filled with Bilingual Employees, and a copy of each of the qualified applicants pool lists for each position filled, identifying whether each applicant had bilingual capabilities.
- (7) A narrative assessment of the procedures used to facilitate communication with members of the Substantial Number of Limited English Speaking Persons Group(s), which shall include an assessment of the adequacy of the procedures;
- (8) The name, address, telephone number, and contact person of each recruitment firm used to search for qualified applicants for City employment positions; and
- (9) For each firm, the total number of City employees hired from the firm in the current year, including the employee's title and Department of employment, and the number of Bilingual Employees hired from the firm to fill Public Contact Positions, including their title and Department of employment.
- (10) A narrative assessing the adequacy of each firm to recruit applicants for Public Contact Positions in each of the Concentrated Number of Limited English Speaking Persons Group(s).

- (11) If the firm has been inadequate in recruiting applicants to fill Public Contact Positions in each of the Substantial Number of Limited English Speaking Persons Group(s), a description of the actions to be taken to improve performance.
- (12) A list of each Department's written materials required to be translated under this Article, the languages into which they have been translated, and the persons who have reviewed the translated material for review of accuracy and appropriateness;
- (13) A description of each Department's procedures for accepting and resolving complaints of an alleged violation of this Article;
- (14) A description of the written policies on providing services to members of the Substantial Number of Limited English Speaking Persons Group(s).
- (15) A report regarding the adequacy of service to members of the Limited English speaking persons Group(s).
- (16) Any other information requested by the City Council necessary for the implementation of this Article.

**SEC. 2.30.120 Recruitment.**

(a) It shall be the policy of the City to publicize job openings for Department's Public Contact Positions as widely as possible, including, but not limited to, in non-English language media. For every Public Contact Position for which bilingual capacity is necessary, the job shall be advertised as a bilingual position for which bilingual conversational proficiency will be a job requirement.

(b) It shall be the policy of the City to contract with recruitment firms able to attract a pool of qualified bilingual applicants for job openings in order to increase the opportunities for finding qualified Bilingual Employees to fill Public Contact Positions.

(c) Each Department's recruitment efforts shall be consistent with the City's Selective Bilingual Certification Process.

**SEC. 2.30.130 Monitoring and Structure**

(a) The City Manager shall be responsible for monitoring and facilitating compliance with this Ordinance. The City Manager will review complaints about alleged violations of this Ordinance and review compliance plans.

(b) The City Manager will submit to the City Council, a strategy to conduct outreach to members of the Substantial Number of Limited English Speaking Persons Group(s) about their rights under this Article; and procedures to accept and investigate complaints alleging violations of this Article. The strategy will be presented to the Finance and Management to the Committee, or such other Committee as the Council may designate before it is forwarded to the full City Council.

**SEC. 2.30.140 Rules and Regulations.** In order to effectuate the terms of this Article, the City Manager may propose rules and regulations consistent with this Article. Such rules and regulations shall be reviewed by the Finance and Management Committee or such other committee as the Council may designate, before they are approved by the City Council.

**SEC. 2.30.150 Enforcement.**

If City Manager determines that a Department is not complying with this Ordinance, he/she shall take steps to enforce the provisions of the Ordinance and assure compliance. The City

Manager's annual compliance plan will include information about the status of compliance with this Ordinance.


**SEC. 2.30.160 Severability.** If any of the provisions of this article or the application thereof to any person or circumstance is held invalid, the remainder of this Article, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Article are severable.

*Introduced - 4/24/01*  
IN COUNCIL, OAKLAND, CALIFORNIA, MAY 08 2001, 20\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES- BRUNNER, CHANG, ~~MILBY~~ <sup>MAUNE</sup>, NADEL, REID, WAN, SPEES, AND  
PRESIDENT DE LA FUENTE - 8

NOES- *None*  
ABSENT- *None*  
ABSTENTION- *None*

ATTEST:   
CEDA FLOYD  
City Clerk and Clerk of the Council  
Of the City of Oakland California