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Statement of the Council for Court Excellence Before the Committee on Government Operations and Facilities of the Council of the District of Columbia

Budget Oversight Hearing for the Office of Human Rights

June 21, 2021

Dear Chairman White and fellow D.C. Council members:

This statement is submitted by the Council for Court Excellence (CCE), and we would like to thank you for the opportunity to provide this testimony on the Office of Human Rights (OHR) Budget for FY22. For nearly 40 years, CCE has worked to improve the administration of justice in the courts and related agencies in D.C. through research and policy analysis.¹ As part of this mission, CCE recognizes that there has been a lack of attention paid to language barriers that Limited-English Proficient (LEP) and Non-English Proficient (NEP) D.C. residents face. More often than not, lack of language interpretation and translation services has resulted in severe disadvantages for these residents, preventing them from accessing vital resources and participating fully in court proceedings. In order to ensure that LEP/NEP individuals are able to access public resources and meaningfully participate in public discourse, we must provide the tools necessary for them to do so.

The D.C. Language Access Act (the “Act”) was first enacted in 2004, giving the Office of Human Rights (OHR) the responsibility of supporting and

¹ Please note that in accordance with our policy, no judicial member of CCE participated in the formulation or approval of this testimony. This testimony does not reflect the specific views of, or endorsement by, any judicial member of CCE.

providing guidance and assistance to D.C. agencies and the public with implementation and understanding of the Act. Under the Act, OHR is also required to enforce government agency compliance and implementation of the Act by providing “oversight, central coordination, and technical assistance”.² In this context, OHR plays the role of investigator: examining alleged violations of the Act, issuing findings, and determining whether or not an agency is in compliance with the Act. We commend OHR for its steadfast commitment to this role and the immense progress that has been made thus far. However, agency noncompliance is a reoccurring issue, and more needs to be done to bring about increased compliance among government agencies. For example, in its [2019 Language Access Program Annual Compliance Review](#), OHR noted that only six out of 23 covered entities fulfilled their language access reporting requirements.³ In that same review, it was also reported that during a language access testing of 17 government agencies, only 12 out of 39 calls resulted in the caller receiving instructions in the caller’s language.⁴

Advocates have previously criticized the “lack of a mechanism that enforces *significant consequences* [emphasis added] for agencies found to be less than 100 percent compliant with the requirements of the Act.”⁵ In cases where there is a finding of non-compliance, OHR is tasked with collaborating with the violating agency to develop corrective actions. Unfortunately, in the event that the violating agency still does not comply with the corrective actions, nothing further can be done under the 2004 version of the Act. It also appears that while LEPs/NEPs are able to utilize OHR’s complaint filing process, this enforcement mechanism is not being used to the fullest extent possible. In 2019, only 19 complaints were filed (10 of which administratively dismissed).⁶ In 2018,

² D.C. Code § 2–1935(a).

³ D.C. Office of Human Rights, *2019 Language Access Program Annual Compliance Review*, pgs. 24-29.

⁴ *Id.* at pg.13.

⁵ Urban Institute, *10 Years of Language Access in Washington, D.C.*, pg. 29.

⁶ *2019 Language Access Program Annual Compliance Review* at pg. 11.

there were only 18 (14 of which were administratively dismissed).⁷ Based off of the frequency in which effective communication is not provided, as demonstrated by the testing documented in the 2019 Language Access Program Annual Compliance Review, we can only suspect that the low number of complaints reflect either a lack of awareness of the availability of the complaint process, lack of confidence that noncompliant agencies shall be appropriately penalized, or both.

Recent amendments to the Act, if fully realized, would strengthen OHR's enforcement mechanisms. Under the 2018 amendments, OHR was given the power to fine non-compliant agencies, and the fines were to be paid to the complainant.⁸ However, these improvements to the law were passed subject to appropriation and have not been funded. As such, the Act continues to be hamstrung in its ability to ensure compliance. The Council should fund the 2018 amendments, as they were an essential remedy to fixing a broken law. Regardless, OHR's FY22 funding should be increased to ensure that the agency has the capacity to educate and support District agencies in an effort to improve language access, with resulting improved outcomes when testing agencies. Also, if the 2018 amendments were to be funded, OHR would need additional resources to address any increase in complaints filed under the improved complaint process. CCE urges this Committee to increase the proposed FY22 funding levels for OHR to expand upon its [Language Access Program](#) and properly meet its enforcement obligations and roles under the Act. As D.C. prepares to reopen, we must make sure that every D.C. resident, including those who belong to the LEP/NEP community, has access to resources and information needed to ensure their survival and success. The LEP/NEP community has been disproportionately affected by the COVID-19 pandemic, and we have only heightened this issue by failing to provide adequate interpretation and translation

⁷ D.C. Office of Human Rights, *2018 Language Access Program Annual Compliance Review*, pg. 11.

⁸ [D.C. Law 22-282, sec. 6c\(a\)\(1\)-\(2\)](#).

services for the COVID-19 vaccination program.⁹ CCE urges this Committee to work with OHR and provide the funding necessary to increase LEP/NEP engagement and achieve efficient, fair, and prompt enforcement of the Language Access Act.

Conclusion

OHR must be funded to increase community engagement and ensure that it has the tools needed to properly and efficiently support and oversee D.C. government agencies, particularly if the 2018 amendments are funded. We strongly encourage this Committee to work with OHR and inquire as to the agency's budgetary needs to increase community engagement so that more LEPs/NEPs are aware of the complaint process and their right to language access. Furthermore, we encourage the Committee to inquire about OHR's needs to expand upon its current enforcement mechanisms so that agency non-compliance is addressed in a swift and effective manner.

Thank you for your consideration and we welcome any questions.

⁹ Laura Hayes and Amanda Gomez, [Much of D.C.'s Vaccine Information is Only in English. Some Change is Coming](#), Washington CityPaper (Mar. 18, 2021); Julie Zauzmer, [D.C. Says Long-Awaited Translation of Vaccine Website is Coming this Weekend](#), The Washington Post (April 9, 2021).