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A BILL

22-75

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Language Access Act of 2004 to add various entities to the list of covered entities with major public contact, to require each public school and public charter school to provide translations of essential information to students, parents, and guardians and to require a public school or public charter school that notifies English proficient parents or guardians of a health or safety issue to provide a translated copy of that notice to each limited or no-English proficient parent or guardian regardless of the percentage of limited or no-English proficient parents or guardians being served by the public school or public charter school, to require the Office of Human Rights to develop a training video or webcast for covered entities with major public contact and for all public schools and public charter schools, to create, in consultation with other District agencies, a repository of translated documents and to make those documents available to a public school or public charter school upon request, and to publish corrective action plans in the District of Columbia Register no later than 45 days after issuing the plan, to require each public school and public charter school to designate a language access liaison and each local education agency to designate a language access coordinator if the percentage of students who are of limited or no-English proficiency is more than 3 percent, or 500 individuals, whichever is fewer, of the population being served by the public school or public charter school, and to clarify the Office of Human Rights’ complaint filing and appeals procedures.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this

act may be cited as the “Language Access for Education Amendment Act of 2018”.

Sec. 2. The Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code § 2-1931 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 2-1931) is amended as follows:

34 (1) Paragraph (3)(B) is amended as follows:

35 (A) Sub-subparagraph (iii) is amended by striking the phrase “Mental
36 Health;” and inserting the phrase “Behavioral Health;” in its place.

37 (B) Sub-subparagraph (vi) is amended by striking the semicolon and
38 inserting the phrase “Department;” in its place.

39 (C) Sub-subparagraph (xxii) is amended by striking the phrase “Office of
40 Personnel;” and inserting the phrase “Department of Human Resources;” in its place.

41 (D) Sub-subparagraph (xxv) is amended by striking the phrase “; and” and
42 inserting a semicolon in its place.

43 (E) Sub-subparagraph (xxvi) is amended by striking the period and inserting
44 a semicolon in its place.

45 (F) New sub-subparagraphs (xxvii), (xxviii), (xxix), (xxx), (xxxi), (xxxii),
46 (xxxiii), (xxxiv), (xxxv), (xxxvi), (xxxvii), (xxxviii), (xxxix), and (xxxx) are added to read as
47 follows:

48 “(xxvii) Department of General Services;

49 “(xxviii) Department of Health Care Finance;

50 “(xxix) Department of Small and Local Business Development;

51 “(xxx) Department of Energy and the Environment;

52 “(xxxi) Department of Transportation;

53 “(xxxii) Department of Youth Rehabilitation Services;

54 “(xxxiii) Department on Disability Services;
55 “(xxxiv) District of Columbia Lottery and Charitable Games
56 Control Board;
57 “(xxxv) Office of Administrative Hearings;
58 “(xxxvi) Child Support Services Division within the Office of the
59 Attorney General;
60 “(xxxvii) Office of the State Superintendent of Education;
61 “(xxxviii) Office of the Tenant Advocate;
62 “(xxxix) Office of Unified Communications; and
63 “(xxxx) Office of Zoning.”.

64 (2) A new paragraph (3A) is added to read as follows:

65 “(3A) “Essential information” means substantively important data and materials
66 related to a student’s wellbeing and educational progress, including data and materials related to
67 the following:

- 68 “(A) Grievance procedures;
- 69 “(B) Language-assistance programs;
- 70 “(C) Notices of nondiscrimination;
- 71 “(D) Parent-teacher conferences;
- 72 “(E) Parent handbooks;
- 73 “(F) Registration and enrollment;

74 “(G) Report cards;

75 “(H) Requests for parent permission for student participation in a school
76 activity;

77 “(I) Special education issues arising under the Individuals with Disabilities
78 Education Act, approved April 13, 1970 (84 Stat. 175; 20 U.S.C. § 1400 *et seq.*), or section 504 of
79 the Rehabilitation Act, approved September 26, 1973 (87 Stat. 356; U.S.C. § 701 *et seq.*), including
80 information needed by a parent or guardian to participate in his or her child’s Individual Education
81 Plan meeting before and during the meeting and a copy of the student’s finalized individual
82 education plan; ~~and~~

83 “(J) Student discipline policies and procedures and behavioral intervention
84 plans;”.

85 “(K) Notice of unexcused absences and associated consequences as
86 required by sections 6(c)(2) and 7(c)(2) of Article II of An Act To provide for compulsory school
87 attendance, for the taking of a school census in the District of Columbia, and for other purposes,
88 approved February 4, 1925 (43 Stat. 806; D.C. Official Code §§ 38-207(c)(2) and 38-208(c)(2));

89 “(L) Notice of disciplinary action; and

90 “(M) Warning that a student is receiving a D or F, or the academic
91 equivalent thereof, issued prior to the end of the grading period.”.

92 (3) A new paragraph (5A) is added to read as follows:

93 “(5A) “Local education agency” or “LEA” means the District of Columbia Public
94 Schools system or any individual or group of public charter schools operating under a single
95 charter.”.

96 (b) Section 4 (D.C. Official Code § 2-1933) is amended as follows:

97 (1) The heading is amended to read as follows:

98 “Sec. 4. Written language services provided.”.

99 (2) New subsections (a-1) and (a-2) are added to read as follows:

100 “(a-1) Each public school and public charter school shall provide translations of essential
101 information for students and parents or guardians ~~upon request~~, into any non-English language
102 spoken by a limited or no-English proficient population that constitutes 3%, or 500 individuals,
103 whichever is less, of the population being served by the public school or public charter school.

104 “(a-2) If a public school or public charter school notifies English proficient parents or
105 guardians of a health or safety issue at the public school or public charter school, the public school
106 or public charter school shall provide a translation of the health or safety notification to all limited
107 or no-English proficient parents or guardians regardless of the percentage of limited or no-English
108 proficient population being served by the public school or public charter school.”.

109 (3) Subsection (b) is amended to read as follows:

110 “(b)(1) If the provisions of this act are contractually imposed on a non-covered entity
111 providing services for a covered entity, the requirements of subsection (a) shall apply to that non-
112 covered entity.

113 “(2) If the provisions of this act are contractually imposed on a non-covered entity
114 providing services for a public school or public charter school, the requirements of subsections (a-
115 1) and (a-2) shall apply to that non-covered entity.”.

116 (4) A new subsection (c) is added to read as follows:

117 “(c) With regard to the District of Columbia Public Schools and public charter schools, the
118 Office of the State Superintendent of Education shall be responsible for determining whether a
119 public school or public charter school serves a limited or no-English proficient population that
120 constitutes 3% or 500 individuals, whichever is less, of the population being served by the school.”.

121 (c) A new section 5a is added to read as follows:

122 “Sec. 5a. Council of the District of Columbia Language Access Requirements

123 “(a)(1) The Council of the District of Columbia shall provide oral language services to a
124 person with limited or no-English proficiency who seeks to access or participate in the services,
125 programs, or activities offered by the Council.

126 “(2) The Council shall, at least annually, determine the type of oral language
127 services needed based upon:

128 “(A) The number or proportion of limited or no-English proficient persons
129 of the population served or encountered, or likely to be served or encountered by the Council;

130 “(B) The frequency with which limited or no-English proficient individuals
131 come into contact with the Council.

132 “(C) The importance of the service provided by the Council; and

133 “(D) The resources available to the Council.

134 “(b)(1) The Council’s website, excluding any attachments or webpages to which the
135 Council’s website links and for which Google translation services are not available, shall be
136 translated.

137 “(2) Hearing notices posted in html format on the Council’s website shall be
138 translated.

139 “(c) The Council shall establish a language access plan, which shall be updated every two
140 years, and shall include:

141 “(1) the types of oral language services that the entity will provide and how the
142 determination was reached; and

143 “(2) an evaluation and assessment of the adequacy of the services to be provided.

144 “(d) The Council shall designate a language access coordinator who shall be responsible
145 for establishing and implementing the Council’s language access plan and who shall develop a
146 plan to conduct outreach to communities with limited or no-English proficient populations about
147 the Council’s language access plans and about the benefits and services to be offered under this
148 section.”.

149 (ed) Section 6(b) (D.C. Official Code § 2-1935(b)) is amended as follows:

150 (1) New paragraphs (1A) and (1B) are added to read as follows:

151 “(1A) Develop and make available to all covered entities with major public contact
152 and to all public and public charter schools a training video or webcast that explains the

153 requirements enumerated in this act and that provides suggestions or technical guidance on how
154 agencies, public schools, or public charter schools can enhance their support and services for
155 limited or no-English proficient constituents.

156 “(1B) In consultation with the Office of the State Superintendent of Education, local
157 education agencies, the Public Charter School Board, the Department of Health, the Department
158 of Human Services, and the Department of General Services, create and maintain a repository of
159 documents that have been, by or on behalf of these agencies, translated into at a minimum, the five
160 most commonly spoken languages in the District of Columbia, and upon request, make these
161 documents available to any public school or public charter school.

162 (2) Paragraph (2) is amended to read as follows:

163 “(2)(A) Track, monitor, and investigate public complaints regarding language
164 access violations at covered entities and all public charter schools, and when necessary, issue
165 written findings of noncompliance and a corrective action plan to a covered entity or public charter
166 school regarding a failure to provide language access; provided, that this responsibility shall not
167 supersede or preclude the existing individual complaint process and mechanism under the
168 jurisdiction of the Office of Human Rights.

169 “(B) A copy of each finding of noncompliance, final determination order,
170 final order on a request for OHR reconsideration, or corrective action plan issued by the Office of
171 Human Rights shall be published in the District of Columbia Register within 45 days after the
172 issuance of the finding, final order, or corrective action plan.

173 “(C) Each copy to be published in the District of Columbia Register
174 pursuant to sub-paragraph (B) of this paragraph shall include:

175 “(i) The name of the entity responsible for the violation or
176 violations;

177 “(ii) The location or locations where the violation or violations took
178 place;

179 “(iii) The date of the violation or violations;

180 “(iv) The date on which each complaint of a violation was filed;

181 “(v) Specific findings of non-compliance with this act;

182 “(vi) The remedy or corrective actions ordered for compliance, and
183 the date or dates by which compliance with those actions shall be achieved.”.

184 (~~e~~) New sections 6a, 6b, and 6c are added to read as follows:

185 “Sec. 6a. Language access for students.

186 “(a) If the percentage of students who are of limited or no-English proficiency is more than
187 3%, or 500 individuals, whichever is less, of the population being served by a public school or
188 public charter school:

189 “(1) The public school or public charter school shall designate a language access
190 liaison, who shall be responsible for:

191 “(A) Ensuring that each parent or guardian who is limited or no-English
192 proficient has access to oral and written translation services upon request;

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193 “(B) Ensuring that students who are of limited or no-English proficiency
194 have meaningful access to all curricular and extracurricular programs offered at the student’s
195 school;

196 “(C) Working with the public school or public charter school’s
197 administration, as well as the local education agency within which the public school or public
198 charter school is located, to ensure that the school, to the extent practicable, implements programs
199 and initiatives that account for the various cultural backgrounds of the students and families who
200 attend the public school or public charter school;

201 “(D) Receiving and processing complaints with regard to the public school
202 or public charter school’s language access program, or lack thereof;

203 “(E) Serving as the public school or public charter school’s point of contact
204 for the Office of Human Rights and the local education agency within which the public school or
205 public charter school is located for all matters pertaining to language access; and

206 “(F) Overseeing implementation of a public school or public charter
207 school’s corrective action plan issued by the Office of Human Rights and any steps a public school
208 or public charter school takes to improve its language access services.

209 “(2)(A) The local education agency within which the public school or public charter
210 school is located shall designate a school language access coordinator who shall oversee and
211 monitor each public school or public charter school within the local education agency to ensure

212 compliance with Title VI of the Civil Rights Act, Title III of the Elementary and Secondary
213 Schools Act and this act.

214 “(B) The Office of Human Rights shall assist any language access liaison
215 or language access coordinator acting pursuant to this section with providing training for front
216 office staff and support staff, teachers, and counselors on how to use the public school or public
217 charter school’s language access line, how to work with interpreters, and on the best practices for
218 interacting with and integrating English language learner students and their families.

219 “(b) If a public charter school is also a local education agency, its language access
220 coordinator may be a single individual carrying out the responsibilities of both the language access
221 coordinator and the language access liaison.

222 “(c) If a individual public school or public charter school receives a complaint that the
223 public school or public charter school has violated this act, the public school or public charter
224 school shall take steps to rectify the violation within 10 business days of receiving the complaint.

225 “Sec. 6b. Filing a complaint with the Office of Human Rights; appeals.

226 “(a) Any person or organization may file with the Office of Human Rights a complaint,
227 which shall be public, alleging a violation of this act in accordance with the procedures set forth
228 in section 4-1216 of the District of Columbia Municipal Regulations (4 DCMR § 1216).

229 “(b) The public complaint may be filed on behalf of a complainant by a person or
230 organization with an interest in the welfare of the complainant.

231 “(c)(1) Within 5 business days of receiving the language access public complaint, the
232 Office of Human Rights shall notify a covered entity, the public school, or a public charter school
233 of the complaint.

234 “(2) If a public complaint is filed against a public school or public charter school,
235 the Office of Human Rights shall notify, no later than 5 business days after receiving the complaint,
236 the local education agency in which the public school or public charter school is located and the
237 Public Charter School Board if the complaint is made against a public charter school.

238 “(d)(1) A covered entity, a public school, or public charter school shall respond to the
239 Office of Human Rights no later than 10 business days after being notified of the language access
240 complaint and shall admit or deny whether the covered entity, public school, or public charter
241 school violated this act.

242 “(2) If a covered entity, public school, or public charter school admits non-
243 compliance with this act, the Office of Human Rights shall issue a finding of non-compliance and
244 shall, with input from the covered entity, public school, or public charter school, issue a corrective
245 action plan no later than 30 days after being notified by the covered entity, public school, or public
246 charter school that it was noncompliant with this act.

247 “(3) If a covered entity, public school, or public charter school denies that it
248 violated this act, the Language Access Director shall attempt to resolve, no later than 30 days after
249 submission of the initial response required in paragraph (1) of this subsection, the complaint with
250 the covered entity, public school, or public charter school against which the complaint was filed

251 before assigning the complaint for investigation. The Language Access Director shall do so by
252 working with the covered entity, public school, or public charter school to ensure the complainant,
253 within a reasonable period of time, receives the information and language access services they are
254 seeking from the covered entity, public school, or public charter school or, alternatively, working
255 to develop a solution that is acceptable to the complainant, the covered entity, public school, or
256 public charter school, and the Language Access Director.

257 “(4) If a covered entity, public school, or public charter school denies that it violated
258 this act, and the complaint cannot be resolved pursuant to paragraph (3) of this subsection, then
259 the Office of Human Rights shall conduct an investigation in accordance with the procedures set
260 forth in Chapter 12 of Title 4 of the District of Columbia Municipal Regulations (4 DCMR § 1200
261 *et seq.*).

262 “(e) An appeal from a final decision and order, or a final decision and order on
263 reconsideration, may be filed with the Office of Administrative Hearings no later than 30 calendar
264 days after the date the Office of Human Rights' final decision and order, or final decision and order
265 on reconsideration, is issued.

266 “(f) The Office of Human Rights shall inform the complainant of any corrective action
267 ordered as a result of a finding of noncompliance at the same time that the Office provides the
268 corrective action to the covered entity, public school, or public charter school found to be
269 noncompliant.

270 “Sec. 6c. Remedies.

271 “(a)(1) If the Office of Human Rights or Office of Administrative Hearings finds that a
272 violation of this act has occurred, it shall impose a fine of \$2,500 on a covered entity; provided
273 that, no fines shall be imposed on the Council of the District of Columbia, District of Columbia
274 Public Schools, the Public Charter School Board, or any public charter schools for any violation
275 of this act.

276 “(2) The fine or fines imposed pursuant to subsection (a) of this section shall be
277 awarded to the complainant.

278 “(a**b**) The administrative remedies in this section are exclusive. A person alleging a
279 violation of this act shall have no private cause of action in any court under this act.”.

280 Sec. 3. Section 2214 of the District of Columbia School Reform Act of 1995, approved
281 April 26, 1996 (110 Stat. 1321, D.C. Official Code § 38-1802.14), is amended by adding a new
282 subsection (h-1) to read as follows:

283 “(h-1)(1) The Board may enter into a contract with any public charter school to provide
284 language access services.

285 “(2) All compensation to the Board for the cost of providing of language access
286 services to a public charter school shall be subject to negotiation and mutual agreement between
287 the Board and the public charter school.”.

288 Sec. 4. Section 6 of the Office of Administrative Hearings Establishment Act of 2001,
289 effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03) is amended by adding
290 a new subsection (b-25) to read as follow:

291 “(b-25) This chapter shall apply to all appeals pursuant to section 6b of the Language
292 Access Act of 2004, approved at the Committee of the Whole, on October 2, 2018.”.

293 Sec. 45. Fiscal impact statement

294 The Council adopts the fiscal impact statement in the committee report as the fiscal impact
295 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
296 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

297 Sec. 56. Effective date.

298 This act shall take effect following approval by the Mayor (or in the event of veto by the
299 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
300 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,
301 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
302 Columbia Register.