

A BILL

22-75

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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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:

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

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

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

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

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

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

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

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

56 “(xxvii) Department of General Services;

57 “(xxviii) Department of Health Care Finance;

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

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

60 “(xxxi) Department of Transportation;

61 “(xxxii) Department of Youth Rehabilitation Services;

62 “(xxxiii) Department on Disability Services;

63 “(xxxiv) District of Columbia Lottery and Charitable Games Control Board;

64 “(xxxv) Office of Administrative Hearings;  
65 “(xxxvi) Office of the Attorney General, Child Support Services Division  
66 “(xxxvii) Office of the State Superintendent of Education;  
67 “(xxxviii) Office of the Tenant Advocate;  
68 “(xxxix) Office of Unified Communications; and  
69 “(xxxx) Office of Zoning.”.

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

71 “(3A) “Essential information” means substantively important data and materials  
72 related to a student’s wellbeing and educational progress, including data and materials related to  
73 the following:

74 “(A) Grievance procedures;

75 “(B) Language-assistance programs;

76 “(C) Notices of nondiscrimination;

77 “(D) Parent-teacher conferences;

78 “(E) Parent handbooks;

79 “(F) Registration and enrollment;

80 “(G) Report cards;

81 “(H) Requests for parent permission for student participation in a school  
82 activity;

83 “(I) Special education issues arising under the Individuals with Disabilities  
84 Education Act, approved April 13, 1970 (84 Stat. 175; 20 U.S.C. § 1400 *et seq.*), or section 504 of  
85 the Rehabilitation Act, approved September 26, 1973 (87 Stat. 356; U.S.C. § 701 *et seq.*), including  
86 information needed by a parent or guardian to participate in his or her child’s Individual Education

87 Plan meeting before and during the meeting and a copy of the student’s finalized individual  
88 education plan; and

89 “(J) Student discipline policies and procedures and behavioral intervention  
90 plans.”

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

92 “(5A) “Local education agency” or “LEA” means the District of Columbia Public  
93 Schools system or any individual or group of public charter schools operating under a single  
94 charter.”.

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

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

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

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

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

104 “(a-2) If a public school or public charter school notifies English proficient parents  
105 or guardians of a health or safety issue at the public school or public charter school, the public  
106 school or public charter school shall provide a translation of the health or safety notification to all  
107 limited or no-English proficient parents or guardians regardless of the percentage of limited or no-  
108 English 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           (c) Section 6(b) (D.C. Official Code § 2-1935(b)) is amended as follows:

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

118                           “(1A) Develop and make available to all covered entities with major public contact  
119 and to all public and public charter schools a training video or webcast that explains the  
120 requirements enumerated in this act and provides suggestions or technical guidance on how  
121 agencies, public schools, or public charter schools can enhance their support and services for  
122 limited or no-English proficient constituents.

123                           “(1B) In consultation in the Office of the State Superintendent of Education, local  
124 education agencies, the Public Charter School Board, the Department of Health, the Department  
125 of Human Services, and the Department of General Services, create and maintain a repository of  
126 documents that have been translated into, at a minimum, the five most commonly spoken  
127 languages in the District of Columbia, and upon request, make these documents available to any  
128 public school or public charter school.

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

130                           “(2)(A) Track, monitor, and investigate public complaints regarding language  
131 access violations at covered entities and all public charter schools, and when necessary, issue  
132 written findings of noncompliance and corrective action plans to covered entities or public charter

133 schools regarding failures to provide language access; provided, that this responsibility shall not  
134 supersede or preclude the existing individual complaints process and mechanism under the  
135 jurisdiction of the Office of Human Rights.

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

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

142                                   “(i) The name of the entity responsible for the violation or  
143 violations;

144                                   “(ii) The location or locations where the violation or violations took  
145 place;

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

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

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

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

151                   (d) New sections 6a, 6b, and 6c are added to read as follows:

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

153                                   “(a) If the percentage of students who are of limited or no-English proficiency is more than  
154 3%, or 500 individuals, whichever is fewer, of the population being served by a public school or  
155 public charter school:

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

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

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

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

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

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

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

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

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

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

186                   “(b) If a public charter school is also a local education agency, its language access  
187 coordinator shall carry out the responsibilities of both the language access coordinator and the  
188 language access liaison.

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

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

193                   “(a) Any person or organization may file with the Office of Human Rights a public  
194 complaint alleging a violation of this act in accordance with the procedures set forth in section 4-  
195 1216 of the District of Columbia Municipal Regulations (4 DCMR § 1216).

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

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

201                   “(2) If a public complaint is filed against a public school or public charter school,

202 no later than 5 business days after receiving the complaint, the Office of Human Rights shall notify  
203 the local education agency in which the public school or public charter school is located and the  
204 Public Charter School Board if the complaint is made against a public charter school.

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

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

213 “(3) If a covered entity, public school, or public charter school does not admit non-  
214 compliance with this act, no later than 30 days after submission of the initial response required in  
215 paragraph (1) of this subsection, the Language Access Director shall attempt to resolve a public  
216 complaint with the covered entity or public charter school against which the complaint was filed  
217 before assigning the complaint for investigation. The Language Access Director shall do so by  
218 working with the covered entity or public charter school to ensure the complainant, within a  
219 reasonable period of time, receives the information and language access services they are seeking  
220 from the covered entity or public charter school or, alternatively, working to develop a solution  
221 that is acceptable to the complainant, the covered entity or public charter school, and the Language  
222 Access Director.

223 “(4) If a covered entity, or public charter school does not admit non-compliance

224 with this act, and the complaint cannot be resolved pursuant to paragraph (3) of this subsection,  
225 then the Office of Human Rights shall conduct an investigation in accordance with the procedures  
226 set forth in Chapter 12 of Title 4 of the District of Columbia Municipal Regulations (4 DCMR §  
227 1200 *et seq.*).

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

232 “(f) The Office of Human Rights shall inform the complainant of any corrective action  
233 ordered as a result of a finding of noncompliance at the same time that the Office provides the  
234 corrective action to the entity found to be noncompliant.

235 “Sec. 6c. Remedies.

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

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

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

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

246 Sec. 4. Fiscal impact statement

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

250           Sec. 5. Effective date.

251           This act shall take effect following approval by the Mayor (or in the event of veto by the  
252 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
253 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,  
254 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
255 Columbia Register.