

AN ACT

D.C. ACT 22-610

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 30, 2019

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 establish language access requirements for the Council of the District of Columbia, 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 certain findings, final orders, and corrective action plans in the District of Columbia Register no later than 45 days after issuance, 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, to clarify the Office of Human Rights' complaint filing and appeals procedures, and to provide for the imposition of a fine of \$2,500 on certain covered entities for a violation of the Language Access Act of 2004, which shall be awarded to a complainant; to amend the Office of Administrative Hearings Establishment Act of 2001 to extend the jurisdiction of the Office of Administrative Hearings to appeals of final decisions and orders of the Office of Human Rights with respect to violations of the Language Access Act of 2004; and to amend the District of Columbia School Reform Act of 1995 to permit the Public Charter School Board to enter into contracts with public charter schools to provide language-access services.

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:

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

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

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

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

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

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

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

“(xxvii) Department of General Services;

“(xxviii) Department of Health Care Finance;

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

“(xxx) Department of Energy and the Environment;

“(xxxi) District Department of Transportation;

“(xxxii) Department of Youth Rehabilitation Services;

“(xxxiii) Department on Disability Services;

“(xxxiv) District of Columbia Lottery and Charitable Games

Control Board;

“(xxxv) Office of Administrative Hearings;

“(xxxvi) Child Support Services Division within the Office of the

Attorney General;

“(xxxvii) Office of the State Superintendent of Education;

“(xxxviii) Office of the Tenant Advocate;

“(xxxix) Office of Unified Communications; and

“(xxxx) Office of Zoning.”

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

“(3A) “Essential information” means substantively important data and materials related to a student’s well-being and educational progress, including data and materials related to the following:

- “(A) Grievance procedures;**
- “(B) Language-assistance programs;**
- “(C) Notices of nondiscrimination;**
- “(D) Parent-teacher conferences;**
- “(E) Parent handbooks;**
- “(F) Registration and enrollment;**
- “(G) Report cards;**
- “(H) Requests for parent permission for student participation in a school**

activity;

“(I) Special-education issues arising under the Individuals with Disabilities Education Act, approved April 13, 1970 (84 Stat. 175; 20 U.S.C. § 1400 *et seq.*), or section 504 of the Rehabilitation Act of 1973, approved September 26, 1973 (87 Stat. 356; 29 U.S.C. § 794), including information needed by a parent or guardian to participate before and during his or her child’s Individual Education Plan meeting and a copy of the student’s finalized Individual Education Plan;

“(J) Student discipline policies and procedures and behavioral intervention plans;

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

“(L) Notice of disciplinary action; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Sec. 5a. Council of the District of Columbia language access requirements.

“(a)(1) The Council of the District of Columbia shall provide oral interpretation in the 5 most commonly spoken languages in the District for any person who seeks to participate in the process to enact legislation.

“(2) The Council shall consult annually with the Office of Human Rights to determine the 5 most commonly spoken languages in the District.

“(b) The Council’s website, excluding any document attachments and any webpages to which the Council’s website links and for which Google translation services (or similar services) are not available, shall be able to be translated using Google translation (or similar services). Official hearing notices shall be in html format so that they are translatable.”.

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

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

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

“(1B) In consultation with the Office of the State Superintendent of Education, local education agencies, the Public Charter School Board, the Department of Health, the Department of Human Services, and the Department of General Services, create and maintain a

repository of documents that have been, by or on behalf of these agencies, translated into at a minimum, the 5 most commonly spoken languages in the District of Columbia, and upon request, make these documents available to any public school or public charter school.”.

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

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

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

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

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

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

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

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

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

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

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

“Sec. 6a. Language access for students.

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

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

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

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

“(C) Working with the public school or public charter school’s

administration, as well as the local education agency within which the public school or public charter school is located, to ensure that the school, to the extent practicable, implements programs and initiatives that account for the various cultural backgrounds of the students and families who attend the public school or public charter school;

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

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

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

“(2)(A) The local education agency within which the public school or public charter school is located shall designate a school language access coordinator who shall oversee and monitor each public school or public charter school within the local education agency to ensure compliance with Title VI of the Civil Rights Act of 1964, approved July 2, 1964 (78 Stat. 252; 42 U.S.C. § 2000d *et seq.*), Title III of the Elementary and Secondary Education Act of 1965, approved April 11, 1965 (79 Stat. 39; 20 U.S.C. § 6801 *et seq.*), and this act.

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

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

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

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

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

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

“(c)(1) No later than 5 business days after receiving the language-access public complaint, the Office of Human Rights shall notify a covered entity, the public school, or a public charter school of the complaint.

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

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

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

“(3) If a covered entity, public school, or public charter school denies that it violated this act, the Language Access Director shall attempt to resolve, no later than 30 days after submission of the initial response required in paragraph (1) of this subsection, the complaint with the covered entity, public school, or public charter school against which the complaint was filed before assigning the complaint for investigation. The Language Access Director shall do so by working with the covered entity, public school, or public charter school to ensure the complainant, within a reasonable period of time, receives the information and language-access services sought from the covered entity, public school, or public charter school or, alternatively, working to develop a solution that is acceptable to the complainant, the covered entity, public school, or public charter school, and the Language Access Director.

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

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

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

“Sec. 6c. Remedies.

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

“(2) The fine or fines imposed pursuant to paragraph (1) of this subsection shall be awarded to the complainant.

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

Sec. 3. Section 6 of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03), is amended by adding a new subsection (b-25) to read as follow:

“(b-25) This act shall apply to all appeals pursuant to section 6b of the Language Access Act of 2004, passed on 2nd reading on December 4, 2018 (Enrolled version of Bill 22-75).”.

Sec. 4. Section 2214 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321, D.C. Official Code § 38-1802.14), is amended by adding a new subsection (h-1) to read as follows:

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

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

Sec. 5. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 6. Fiscal impact statement.

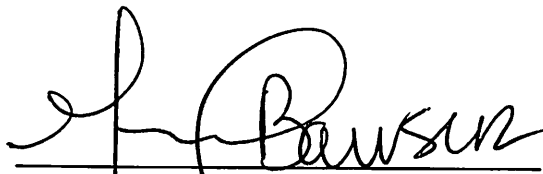
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 7. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 30, 2019



COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, DC, 20004

Docket No. B22-0075

ITEM ON CONSENT CALENDAR

ACTION & DATE

FIRST READING, Nov 13, 2018

VOICE VOTE

RECORDED VOTE ON REQUEST

APPROVED

ABSENT

ROLL CALL VOTE - Result

Council Member	Aye	Nay	NV	AB	Council Member	Aye	Nay	NV	AB	Council Member	Aye	Nay	NV	AB
Chmn. Mendelson	X				Gray	X				Silverman	X			
Allen	X				Grosso	X				T. White	X			
Bonds	X				McDuffie	X				Todd	X			
Cheh	X				Nadeau	X								
Evans	X				R. White	X								
X - Indicate Vote					AB - Absent					NV - Present, Not Voting				

CERTIFICATION RECORD

Secretary to the Council

1.7.19

Date

Docket No. B22-0075

ITEM ON CONSENT CALENDAR

ACTION & DATE

FINAL READING, Dec 4, 2018

VOICE VOTE

RECORDED VOTE ON REQUEST

APPROVED

ABSENT

MCDUFFIE

ROLL CALL VOTE - Result

Council Member	Aye	Nay	NV	AB	Council Member	Aye	Nay	NV	AB	Council Member	Aye	Nay	NV	AB
Chmn. Mendelson	X				Gray	X				Silverman	X			
Allen	X				Grosso	X				T. White	X			
Bonds	X				McDuffie				X	Todd	X			
Cheh	X				Nadeau	X								
Evans	X				R. White	X								
X - Indicate Vote					AB - Absent					NV - Present, Not Voting				

CERTIFICATION RECORD

Secretary to the Council

1.7.19

Date