



Legislation Text

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A Local Law to amend the administrative code of the city of New York, in relation to the provision of language assistance services by the Department of Education.

Be it enacted by the Council as follows:

Section 1. Legislative findings. According to the New York City Department of Education, almost 200 languages are spoken in New York City, and approximately 2.87 million New Yorkers, or 36% of the population, are foreign born. As a result, about 43% of public schools students (approximately 500,000 students) speak a language at home other than English and, therefore, approximately 2 in 5 parents of children who attend public school also speak these languages, primarily, instead of English.

Parental involvement in a child's education is a strong determiner of that child's success in school. The Council finds that many parents and guardians of school-aged children do not speak English sufficiently well to meaningfully engage their children in all aspects of their education. In particular, such parents need language assistance to communicate effectively with the New York City Department of Education.

Although the Department of Education and other City agencies provide some translation and language assistance services to the parents of schoolchildren, these services are inadequate, for several reasons. Such services are often focused in areas that do not truly assist parents. For example, the Department primarily translates documents that are produced centrally concerning legal or procedural matters that parents might

review once, if ever. Parents, however, most often need language assistance at their local schools in person, or by telephone, in order to speak with a teacher or the principal about routine matters like homework, attendance, health, behavior or a child's performance in class.

In addition, the Department's language assistance efforts are hampered by institutional policies that make its current provision of effective language assistance more difficult. For example, the documents that the Department does translate are, frequently, written in bureaucratic jargon and are difficult to understand in any language. Parents, therefore, often need to engage in a dialogue to understand the information and choices they are being given. Additionally, the Department delivers documents so close to the Department's self-imposed deadlines that parents often cannot meaningfully respond to these documents even if they can read and understand them, and, therefore, the time needed to obtain translation is fatal to meeting such deadlines. The Department also tends to impose uniform deadlines and schedules for parents across the City, overwhelming its support systems with thousands of simultaneous requests for information. Such support is available, if at all, during business hours, complicating the process for hard-working immigrant parents who may lack convenient access to a telephone during their workdays.

The Department also suffers from staffing and infrastructure shortcomings that exacerbate the above-mentioned problems. Schools and regional offices are not routinely staffed with enough bi-lingual employees, in part because the Department cannot always assign bi-lingual employees where they are most needed, or pay them a premium for using their language skills. Frequently, no one within a school building can assist school staff with translation needs, and many schools lack sufficient phone lines or Internet connections to enable staff to obtain assistance from the Department. Moreover, there is frequently no one available from the Department to assist school staff members with translation needs. Even if staff members are available to translate documents, they often lack access to working copiers to reproduce and distribute them.

The Department's approach to customer service also fails to incorporate developing technologies for translation and interpretation, to the detriment of non-English speaking parents. For example, wireless headsets

for simultaneous interpretation equipment can be used to communicate at meetings, and translation programs available on the Internet could assist parents, but these methods are infrequently used. The Department's website, too, lacks sufficient content in languages other than English to provide even minimal assistance to non-English speakers.

Finally, the Department's centralized approach favors a "one size fits all" language assistance model, where the needs of parents and of individual schools are not directly taken into account. To provide language assistance services efficiently, the Department needs to distinguish between schools with low language-assistance needs and those with higher needs and concentrate its efforts on the latter. The Department should also respect the judgment of each school's principal and ensure that the annual budgets of the 1350 public schools reflect the each school's language assistance needs.

Until such a time as the demand for adult English language education can be met for all New Yorkers who seek it, the need for municipal translation and interpretation services remains high. The Council, therefore, finds that legislation is necessary to improve the quantity and quality of translation services provided by the City of New York to parents and guardians of public schoolchildren.

§ 2. Title 8 of the administrative code of the city of New York is hereby amended to add a new chapter 11 to read as follows:

CHAPTER 11
EDUCATION EQUITY ACT

- § 8-1101 Short title.
- § 8-1102 Definitions.
- § 8-1103 School-based language assistance plans.
- § 8-1104 Determination of primary language.
- § 8-1105 Interpretation services required.
- § 8-1106 Translation services required.
- § 8-1107 Notice to parents and guardians.
- § 8-1108 Certification of translation.
- § 8-1109 Department of education website.
- § 8-1110 Reporting.
- § 8-1111 General provisions.

§ 8-1101 Short title. This local law shall be known and may be cited as the Education Equity Act.

§ 8-1102 Definitions. When used in this chapter:

a. “Covered languages” means the nine most common languages spoken by persons living in New York City, as reported by the New York city department of city planning or such other city agency as the New York city department of education deems a reliable source of such information.

b. “Department” means the New York city department of education and any successor agency.

c. “Document” means written communication by the department to any parent or guardian of a child who attends or seeks to attend or is entitled to attend public school within the city of New York.

d. “Interpretation” means the act of contemporaneous communication between speakers of two or more covered languages wherein the written or oral words of one person are communicated to others orally in a different language.

e. “Primary language” means the primary language spoken by a student’s parents or guardians, as expressed to the department by such parents or guardians.

f. “School” means any public school within the jurisdiction of the department.

g. “Translation” means the act of communication between speakers of two or more covered languages wherein the written words of one person are communicated to others in writing in a different language.

§ 8-1103 School-based language assistance plans. Each school shall prepare annually a language assistance plan in such form as the department shall specify. Such language assistance plan shall contain, at a minimum, each school’s assessment of (1) its language assistance needs, (2) its ability to fulfill such needs, and (3) the resources it requires to fulfill such needs. The department shall collect and review such language assistance plans at a date sufficiently early in each fiscal year to be able to consider the contents of such plans in formulating school-based budgets for the coming fiscal year.

§ 8-1104 Determination of primary language. For each student enrolled in the New York city public school system, the department shall determine, by the effective date of the local law that added this chapter, or within thirty days of such student’s enrollment if such enrollment occurs after such effective date, the primary language spoken by the parents or guardians of such student and whether, if such language is not English, such parent or guardian requires language assistance services in order to communicate effectively with the department.

§ 8-1105 Interpretation services required. a. The department shall ensure that during regular business hours a sufficient number of individuals are available by telephone to provide interpretation services in each of the covered languages to meet the expected needs of parents or guardians who seek to communicate with the department. Such interpretation services shall also be

available through staff members who shall be present at schools, regional or other departmental offices, and other locations where parents and guardians interact with the department, but may be provided at such locations by telephone in the event that a person fluent in the necessary covered language is not available at such location.

b. The department shall provide interpretation services at (i) meetings of the panel for educational policy, (ii) events at which four hundred or more persons are expected to attend, and (iii) meetings or events at which the department reasonably believes that ten percent or more of the persons expected to attend speak primary languages that are covered languages other than English. Such interpretation services shall be provided in whichever of the covered languages the department expects will be spoken as the primary language of the persons attending such meeting or event.

§ 8-1106 Translation services required. a. The department shall translate the following documents into each of the covered languages and disseminate such documents to parents and guardians in whichever of the covered languages, if any, is their primary language, as determined by the department pursuant to section 8-1104 of this chapter:

1. The standardized text on report cards and permissions slips; and
2. Documents disseminated to one thousand or more parents or guardians that require a parent or guardian to respond to the department, or that require a parent or guardian to take an action in order to obtain or preserve a right or benefit with respect to their child's education, or that provide notification of an upcoming event that concerns their child's education.

b. With respect to any document that the department produces centrally or regionally for distribution to all or substantially all parents and guardians within the city or an administrative region, as applicable, that it does not distribute to all parents or guardians in the primary language of such parents or guardians, as determined by the department pursuant to section 8-1104 of this chapter, and which document concerns discipline or students' health, safety, right to attend school or any other legal right granted to students or to the parents or guardians by city, state or federal law, the department shall provide either a cover letter or a statement on the face of such document, indicating in each covered language how to obtain a free translation or interpretation of such document from the department.

c. With respect to any document not prepared for distribution citywide or regionally, that concerns an individual student's (i) health, safety, legal or disciplinary matter, (ii) right to continue to receive public education, or (iii) placement in any special education, English language learner or non-standard academic program, the department shall, if not required to do otherwise by state or federal law, rule or regulation, provide such student's parents or guardians whose primary language is a covered language other than English with a translation of such document into the appropriate covered language, or shall provide either a cover letter or a statement on the face of the document, indicating in the appropriate covered language how to obtain a free translation or interpretation

of such document from the department.

d. The department shall provide a mechanism by which its employees can fax documents of a reasonable length to a person or service and receive back a translation of such documents in accordance with the sender's instructions. Such mechanism shall be designed such that, under ordinary circumstances, a principal or teacher can obtain a translation of a single-page note or letter within twenty-four hours or by the conclusion of the next business day, whichever is later.

§ 8-1107. Notice to parents and guardians. a. The department shall prepare in each of the covered languages a short, concise document setting forth the rights of parents and guardians with respect to translation and interpretation services as required by this chapter and by any other applicable law, rule or regulation, and explaining how to obtain such services. Such document shall be provided, in the appropriate covered language, if any, to each parent or guardian who, as determined by the department pursuant to section 8-1104 of this chapter, requires language assistance services. Copies of such document in each covered language shall be placed in each public school or office to which the public has access in sufficient quantity that it can be provided to any member of the public who enters such school or office and requires language assistance services.

b. A sign written in each of the covered languages shall be displayed in a conspicuous location in each school or department office building to which the public has access, indicating the availability and location in such school or building of the document required pursuant to subdivision a of this section.

c. In the event that the department determines that ten percent or more of the parents or guardians of the students attending any individual school speak a primary language that is not a covered language, then at such individual school, the document and sign required by this section shall be prepared and made available at such school in such other language in addition to the covered languages.

§ 8-1108 Certification of translation. In the department's discretion, it may satisfy the translation requirements of this chapter with respect to any document concerning a student's education that must be completed with information provided by a parent or guardian whose primary language, as determined by the department pursuant to section 8-1104 of this chapter, is not the language in which the document is printed, if such document is completed by either a parent or guardian or by a department employee, and signed by the parent or guardian, provided that such department employee certifies on the face of such document or upon an attached document, in such form and manner as determined by the department, that (i) such employee provided or secured interpretation or translation services for each parent or guardian signing the document, (ii) the employee believes that each such person understood the purpose of the document and the information being provided in the document and conveyed in the interpretation or translation, and (iii) each such person received a copy of such document and such certification.

§ 8-1109 Department of education website. The department's website shall contain, on its homepage and on such other web pages as the department shall determine is appropriate, information in each of the covered languages sufficient to direct any user whose primary language is a covered language other than English to a resource on the department's website that contains an explanation of the rights of parents and guardians to translation and interpretation services as required by this chapter and by any other applicable law, rule or regulation, and explaining how to obtain such services.

§ 8-1110 Reporting. The department shall report annually to the city council on or before the first day of December of each year, beginning in December 2007, the number of parents or guardians who had children in the New York city public school system during the immediately preceding school year whose primary language, as determined pursuant to section 8-1104 of this chapter, was not English, and, for each covered language other than English, the number of such parents and guardians speaking such language. Such report shall also state, with respect to such reporting period:

1. the number of distinct documents that the department translated into the covered languages and the general nature of such documents;

2. the number of meetings at which the department provided interpretation services and the languages for which it provided such services;

3. the department's annual budget for language assistance services;

4. the number of employees whose primary job function is to provide such language assistance services; and

5. the number of times interpretation services were provided by telephone, and the languages in which such services were provided.

§ 8-1111 General provisions. Nothing in this chapter shall:

a. preclude a parent or guardian from having an adult volunteer, a relative 16 years of age or older, a spouse or a domestic partner provide translation or interpretation services for such individual;

b. be construed as preventing the department from complying with any provision of state or federal law concerning translation or interpretation;

c. be construed as prohibiting the department from exceeding the mandates of this chapter, from relying upon the resources of other city, state or federal agencies, or from translating documents into, or providing interpretation services in, languages other than the covered languages;

d. require the department to translate documents or provide interpretation for matters that do not concern a student's education, or that are prolix or are unintelligible; or

e. require the department to translate or interpret legal documents not otherwise required to be translated by this chapter, including, but not limited to, legal documents generated by or for use in a proceeding not held by the department, except to provide upon request a general explanation of the nature of such documents if such documents concern the public education of the parent's or guardian's child.

§ 3. If any subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this section, which remaining portions shall remain in full force and effect.

§ 4. This local law shall take effect one hundred and eighty days after its enactment.

MHG/DKL LS # 174, 524, 811
October 6, 2005