S T A T E O F N E W Y O R K

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I N A S S E M B L Y

April 27, 2010

Introduced by M. of A. ESPAILLAT -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to language assistance services by state agencies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The civil service law is amended by adding a new section 55-d to read as follows:

S 55-D. ENSURING LANGUAGE ASSISTANCE SERVICES BY STATE AGENCIES. 1. EVERY STATE AGENCY SHALL PROVIDE LANGUAGE ASSISTANCE SERVICES TO ALL LIMITED ENGLISH PROFICIENT INDIVIDUALS SO AS TO ENSURE THAT ALL SUCH INDIVIDUALS WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE WITH THE PROFICIENCY NECESSARY FOR ADEQUATE COMMUNICATION WITH AGENCY PERSONNEL HAVE EFFECTIVE ACCESS TO THE AGENCY'S PROGRAMS AND SERVICES. EVERY STATE AGENCY SHALL ENSURE THAT ALL INDIVIDUALS PROVIDING LANGUAGE ASSISTANCE SERVICES TO LIMITED ENGLISH PROFICIENT INDIVIDUALS HAVE SUFFICIENT FLUENCY IN BOTH ENGLISH AND THE RELEVANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR SUCH INDIVIDUAL TO ACCESS SERVICES. LANGUAGE ASSISTANCE SERVICES FOR PRIMARY AND NON-PRIMARY LANGUAGES SHALL BE AVAILABLE AT ALL AGENCY LOCATIONS OPEN FOR PUBLIC BUSINESS, AND SHALL, TO THE EXTENT PRACTICABLE, BE PROVIDED IN PERSON. TRANSLATION OF ALL FREQUENTLY USED FORMS AND OTHER WRITTEN MATERIALS THAT ARE ESSENTIAL TO ACCESS AGENCY SERVICES SHALL BE AVAILABLE IN ALL OF THE AGENCY'S PRIMARY LANGUAGES. THE PRESIDENT SHALL DEVELOP AND IMPLEMENT A COMPREHENSIVE LANGUAGE ASSISTANCE PLAN THAT ESTABLISHES UNIFORM POLICIES AND PROCEDURES FOR PROVIDING LANGUAGE ASSISTANCE SERVICES BY ALL STATE AGENCIES, INCLUDING PROCEDURES FOR DOCUMENTING THE PROVISION OF OR REFUSAL OF LANGUAGE ASSISTANCE SERVICES, AND THAT REQUIRES TRAINING TO ENSURE THAT ALL STAFF WHO HAVE CONTACT WITH LIMITED ENGLISH PROFICIENT INDIVIDUALS COMPLY WITH THE PLAN. SUCH PERSON PROVIDING LANGUAGE ASSISTANCE SERVICES MAY BE A QUALIFIED INTERPRETER, VOLUNTARY WORKER OR OTHER PERSONNEL CURRENTLY EMPLOYED BY THE AGENCY.

2. ALL STATE AGENCIES SHALL PROVIDE WRITTEN NOTICE AS TO THE AVAILABILITY OF LANGUAGE ASSISTANCE SERVICES, INCLUDING ORAL INTERPRETATION

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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AND TRANSLATIONS OF FORMS AND OTHER MATERIALS. NOTICE OF AVAILABILITY OF LANGUAGE ASSISTANCE SERVICES SHALL ALSO BE POSTED IN CONSPICUOUS AGENCY LOCATIONS OPEN FOR PUBLIC BUSINESS IN ALL PRIMARY LANGUAGES.

3. ALL STATE AGENCIES SHALL MAINTAIN A RECORD OF THE PRIMARY LANGUAGES SPOKEN BY ANY INDIVIDUAL SEEKING OR RECEIVING LANGUAGE ASSISTANCE SERVICES AT SUCH AGENCY. SUCH INFORMATION SHALL BE RECORDED WHETHER OR NOT SUCH INDIVIDUAL ACTUALLY OBTAINS SUCH SERVICE.

4. (A) ALL STATE AGENCIES SHALL SUBMIT TO THE PRESIDENT AN ANNUAL REPORT ASSESSING ITS COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION. THE REPORT SHALL IDENTIFY THE PRIMARY LANGUAGES USED BY THE PUBLIC, AND THE PERCENTAGE OF THE AGENCY'S INTERACTION WITH THE PUBLIC WHO SPEAK EACH PRIMARY LANGUAGE.

(B) ALL STATE AGENCIES SHALL MAINTAIN A RECORD OF THE FOREIGN LANGUAGE PRIMARILY SPOKEN BY ANY INDIVIDUAL SEEKING OR RECEIVING LANGUAGE ASSISTANCE SERVICES AT THE AGENCY. SUCH INFORMATION SHALL BE RECORDED WHETHER OR NOT SUCH INDIVIDUAL ACTUALLY OBTAINS SERVICES.

(C) THE DEPARTMENT SHALL SUBMIT TO THE GOVERNOR AND TO THE LEGISLATURE, ON OR BEFORE, MARCH FIRST OF EACH YEAR, A WRITTEN REPORT ON AGENCY COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION. THE REPORT SHALL ALSO COMPILE AGENCY FINDINGS AND IDENTIFY THE PRIMARY LANGUAGES USED BY THE PUBLIC, AND THE PERCENTAGE OF OVERALL AGENCY INTERACTION WITH THE PUBLIC WHO SPEAK EACH PRIMARY LANGUAGE. THIS REPORT SHALL ALSO INCLUDE INDIVIDUAL AGENCY REPORT SUBMISSIONS AS REQUIRED IN THIS SECTION.

5. THE PRESIDENT SHALL PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY AND PROPER TO IMPLEMENT THE PROVISIONS OF THIS SECTION, WHICH SHALL INCLUDE THE METHODOLOGY TO BE USED BY AGENCIES IN DETERMINING PRIMARY LANGUAGES.

6. FOR THE PURPOSES OF THIS SECTION: (A) "PRIMARY LANGUAGE" MEANS A LANGUAGE OTHER THAN ENGLISH THAT IS EITHER (I) USED TO COMMUNICATE, DURING AT LEAST FIVE PERCENT OF PUBLIC VISITS IN A YEAR, BY INDIVIDUALS OF THE PUBLIC WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT THE LEVEL OF PROFICIENCY NECESSARY FOR EFFECTIVE COMMUNICATION WITH AGENCY OFFICIALS; OR (II) SPOKEN BY NON-ENGLISH SPEAKING INDIVIDUALS COMPRISING MORE THAN FIVE PERCENT OF THE AGENCY SERVICE AREA POPULATION, AS CALCULATED BY USING DEMOGRAPHIC INFORMATION AVAILABLE FROM THE UNITED STATES BUREAU OF THE CENSUS;

(B) "STATE AGENCY" MEANS ANY STATE DEPARTMENT, BOARD, BUREAU, DIVISION, COMMISSION, COMMITTEE, COUNCIL, OFFICE OR OTHER GOVERNMENTAL ENTITY PERFORMING A GOVERNMENTAL OR PROPRIETARY FUNCTION FOR THE STATE, EXCEPT FOR THE JUDICIARY OR THE STATE LEGISLATURE.

(C) "LANGUAGE ASSISTANCE SERVICES" MEANS INTERPRETATION AND TRANSLATION SERVICES EITHER ORALLY OR IN WRITING.

(D) "LIMITED ENGLISH PROFICIENT INDIVIDUAL" MEANS A PERSON WHO IDENTIFIES AS BEING OR IS UNABLE TO SPEAK, READ OR WRITE THE ENGLISH LANGUAGE AT A LEVEL THAT PERMITS HIM OR HER TO INTERACT EFFECTIVELY WITH AN AGENCY.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.