

# STATE OF NEW YORK

2939--A

2019-2020 Regular Sessions

## IN SENATE

January 30, 2019

Introduced by Sens. SERRANO, BAILEY, KAVANAGH, SANDERS, SAVINO, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to establishing the education equity act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "education equity act".

§ 2. The education law is amended by adding a new article 67 to read as follows:

### ARTICLE 67

#### EDUCATION EQUITY ACT

##### Section 3330. Definitions.

3331. School-based language assistance plans.

3332. Determination of primary language.

3333. Interpretation services required.

3334. Translation services required.

3335. Notice to parents and guardians.

3336. Certification of translation.

3337. Department of education website.

3338. Reporting.

3339. General provisions.

§ 3330. Definitions. Wherever used in this article, the following terms shall have the respective meanings hereinafter set forth or indicated:

1. Covered languages. The term "covered languages" means two of the most commonly spoken languages, other than English, being spoken by at

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

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1 least two percent, rounded to the nearest percentile, of the population  
2 in a school district within a city, village or town having a population  
3 of less than one hundred twenty-five thousand inhabitants, two of the  
4 most commonly spoken languages, other than English, being spoken by at  
5 least two percent, rounded to the nearest percentile, of the population  
6 in a school district within a city having a population of one hundred  
7 twenty-five thousand inhabitants or more, eight of the most commonly  
8 spoken languages, other than English, being spoken in a community  
9 district, as defined in article fifty-two-A of this chapter, within a  
10 city having a population of one million or more inhabitants. Such infor-  
11 mation shall be reported by a source deemed reliable by the local  
12 department of education, except that in a city having a population of  
13 one million or more inhabitants, such information shall be deemed reli-  
14 able by the New York city department of city planning or such other city  
15 agency as the New York city department of education deems a reliable  
16 source of such information.

17 2. Primary language. The term "primary language" means the primary  
18 language spoken by a student's parents or guardians, as expressed to the  
19 department by such parents or guardians.

20 3. School district. The term "school district" means each school  
21 district within the state of New York including those within a city  
22 having a population of one hundred twenty-five thousand or more inhabit-  
23 ants and each community district of the city district, as defined in  
24 article fifty-two-A of this chapter. School district further means the  
25 office or agency designated by the school district to administer the  
26 program set forth in this article.

27 4. School. The term "school" means any public school within the juris-  
28 isdiction of any school district as defined in subdivision three of this  
29 section.

30 5. Translation. The term "translation" means the act of communication  
31 between speakers of two or more covered languages wherein the written  
32 words of one person are communicated to others in writing in a different  
33 language.

34 § 3331. School-based language assistance plans. Each school district  
35 shall annually prepare a language assistance plan which shall contain,  
36 at a minimum, an assessment of the language assistance needs of the  
37 school district, the ability of the school district to fulfill such  
38 needs and the resources required for the school district to fulfill such  
39 needs. Each school district shall collect and review such language  
40 assistance plans at a date sufficiently early in each fiscal year to be  
41 able to consider the contents of such plans in formulating school-based  
42 budgets for the coming fiscal year.

43 § 3332. Determination of primary language. Each school district shall  
44 determine, upon enrollment or within thirty days of enrollment, the  
45 primary language spoken by the parents or guardians of each student  
46 enrolled in a public school within such district and whether, if such  
47 language is not English, such parent or guardian requires language  
48 assistance services in order to communicate effectively with the school  
49 district.

50 § 3333. Interpretation services required. 1. Each school district  
51 shall ensure that during regular business hours a sufficient number of  
52 individuals are available by telephone to provide interpretation  
53 services in each of the covered languages to meet the expected needs of  
54 parents or guardians who seek to communicate with their child's school.  
55 Where resources allow, such services shall also be available through  
56 staff members who shall be present at schools, regional or other depart-

1 mental offices, and other locations where parents and guardians may  
2 interact with the school district, but may be provided at such locations  
3 by telephone in the event that a person fluent in the necessary covered  
4 language is not available at such location.

5 2. For cities having a population of one million or more inhabitants,  
6 the department shall provide interpretation services at meetings of the  
7 panel for educational policy events at which four hundred or more  
8 persons are expected to attend and meetings or events at which the  
9 department reasonably believes that ten percent or more of the persons  
10 expected to attend speak primary languages that are covered languages  
11 other than English. Such interpretation services shall be provided in  
12 whichever of the covered languages the department expects will be spoken  
13 as the primary language of the persons attending such meeting or event.

14 § 3334. Translation services required. 1. Each school district shall  
15 translate the following documents into each of the covered languages and  
16 disseminate such documents to each public school within such district  
17 for dissemination to parents and guardians in whichever of the covered  
18 languages, if any, is their primary language, as determined by such  
19 district pursuant to section thirty-three hundred thirty-two of this  
20 article:

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

28 2. With respect to any document that the school district produces for  
29 distribution to all or substantially all parents and guardians of  
30 students in such school district and that it does not distribute to all  
31 parents or guardians in the primary language of such parents or guardi-  
32 ans, as determined by the school district pursuant to section thirty-  
33 three hundred thirty-two of this article, and which document concerns  
34 discipline or students' health, safety, right to attend school or any  
35 other legal right granted to students or to the parents or guardians by  
36 local, city, state or federal law, the school district shall provide  
37 either a cover letter or a statement on the face of such document, indi-  
38 cating in each covered language how to obtain a free translation or  
39 interpretation of such document from the school district.

40 3. With respect to any document not prepared for broad distribution  
41 that concerns an individual student's health, safety, legal or discipli-  
42 nary matter, right to continue to receive public education or placement  
43 in any special education, English language learner or non-standard  
44 academic program the school district shall, if not required to do other-  
45 wise by state or federal law, rule or regulation, provide such student's  
46 parents or guardians whose primary language is a covered language other  
47 than English with a translation of such document into the appropriate  
48 covered language, or shall provide either a cover letter or a statement  
49 on the face of the document, indicating in the appropriate covered  
50 language how to obtain a free translation or interpretation of such  
51 document from the school district.

52 4. Each school district shall provide a mechanism by which its public  
53 school employees can fax documents of a reasonable length to a person or  
54 service and receive back a translation of such documents in accordance  
55 with the sender's instructions. Such mechanism shall be designed such  
56 that, under ordinary circumstances, a principal or teacher can obtain a

1 translation of a single-page note or letter within twenty-four hours or  
2 by the conclusion of the next business day, whichever is later.

3 § 3335. Notice to parents and guardians. 1. Each school district shall  
4 prepare in each of the covered languages a short, concise document  
5 setting forth the rights of parents and guardians with respect to trans-  
6 lation and interpretation services as required by this article and by  
7 any other applicable law, rule or regulation, and explaining how to  
8 obtain such services. Such document shall be provided, in the appropri-  
9 ate covered language, if any, to each parent or guardian who, as deter-  
10 mined by the local school district pursuant to section thirty-three  
11 hundred thirty-two of this article, requires language assistance  
12 services. Copies of such document in each covered language shall be  
13 placed in each public school or office to which the public has access in  
14 sufficient quantity that it can be provided to any member of the public  
15 who enters such school or office and requires language assistance  
16 services.

17 2. A sign written in each of the covered languages shall be displayed  
18 in a conspicuous location in each public school, school district office  
19 or other departmental office building to which the public has access,  
20 indicating the availability and location in such school or building of  
21 the document required pursuant to subdivision one of this section.

22 3. In the event that the school district determines that ten percent  
23 or more of the parents or guardians of the students attending any indi-  
24 vidual school speak a primary language that is not a covered language,  
25 then at such individual school, the document and sign required by this  
26 section shall be prepared and made available at such school in such  
27 other language in addition to the covered languages.

28 § 3336. Certification of translation. In the school district's  
29 discretion, it may satisfy the translation requirements of this article  
30 with respect to any document concerning a student's education that must  
31 be completed with information provided by a parent or guardian whose  
32 primary language, as determined by the school district pursuant to  
33 section thirty-three hundred thirty-two of this article, is not the  
34 language in which the document is printed, if such document is completed  
35 by either a parent or guardian or by a school district employee, and  
36 signed by the parent or guardian, provided that such school district  
37 employee certifies on the face of such document or upon an attached  
38 document, in such form and manner as determined by the school district,  
39 that such employee provided or secured interpretation or translation  
40 services for each parent or guardian signing the document, the employee  
41 believes that each such person understood the purpose of the document  
42 and the information being provided in the document and conveyed in the  
43 interpretation or translation and each such person received a copy of  
44 such document and such certification.

45 § 3337. Department of education website. The department shall create a  
46 special website which shall contain, on its homepage and on such other  
47 web pages as the department shall determine is appropriate, information  
48 in each of the covered languages sufficient to direct any user whose  
49 primary language is a covered language other than English to a resource  
50 on the department's website that contains an explanation of the rights  
51 of parents and guardians to translation and interpretation services as  
52 required by this article and by any other applicable law, rule or regu-  
53 lation, and explaining how to obtain such services.

54 § 3338. Reporting. 1. Except as provided in subdivision two of this  
55 section, each school district shall report annually to the local board  
56 of education on or before the first day of December of each year, begin-

ning in December, two thousand twenty-one, the number of parents or guardians who had children in the public school system during the immediately preceding school year whose primary language, as determined pursuant to section thirty-three hundred thirty-two of this article, was not English, and, for each covered language other than English, the number of such parents and guardians speaking such language.

2. In cities having a population of one million or more inhabitants, each community district shall report to the city council of the city of New York on or before the first day of December of each year, beginning in December, two thousand twenty-one, 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 thirty-three hundred thirty-two of this article, was not English, and, of each covered language other than English, the number of such parents and guardians speaking such language.

3. Such report shall also state, with respect to such reporting period:

a. Number of distinct documents that the school district translated into the covered languages and the general nature of such documents;

b. Number of meetings at which the school district provided interpretation services and the languages for which it provided such services;

c. Annual budget for language assistance services;

d. Number of employees whose primary job function is to provide such language assistance services; and

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

§ 3339. General provisions. Nothing in this article shall:

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

2. Be construed as preventing the school district from complying with any provision of state or federal law concerning translation or interpretation.

3. Be construed as prohibiting the school district from exceeding the mandates of this article, 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.

4. Be construed as prohibiting the school district from utilizing BOCES as a designated agency to administer the program set forth in this article or as a source of financial aid for such program.

5. Require the school district to translate documents or provide interpretation for matters that do not concern a student's education, or that are prolix or are unintelligible.

6. Require the school district 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 school district, 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. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section

1 or part thereof directly involved in the controversy in which such judg-  
2 ment shall have been rendered. It is hereby declared to be the intent of  
3 the legislature that this act would have been enacted even if such  
4 invalid provisions had not been included herein provided it does not  
5 materially alter the effect of this legislation.

6 § 4. This act shall take effect on the one hundred eightieth day after  
7 it shall have become a law.